

MAK

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

18 5010

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 1287 County Welfare Road, Leesport, PA 19533

Address of Defendant:

Place of Accident, Incident or Transaction: Montgomery

RELATED CASE, IF ANY:

Case Number: Judge: Date Terminated:

Civil cases are deemed related when Yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes ☐ No ☐
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes ☐ No ☐
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? Yes ☐ No ☐
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes ☐ No ☐

I certify that, to my knowledge, the within case ☐ is / ☐ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 11/19/2018 Don M. Gail Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☒ 7. Civil Rights 555
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases (Please specify):

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify):
- ☐ 7. Products Liability
- ☐ 8. Products Liability - Asbestos
- ☐ 9. All other Diversity Cases (Please specify):

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, \_\_\_\_\_, counsel of record or pro se plaintiff, do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:
- ☐ Relief other than monetary damages is sought.

DATE: \_\_\_\_\_ Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

MAK

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

Roth

CIVIL ACTION

v.

NO. **18 5010**

PrimeCare, et. al.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ☐
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ☐
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ☐
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ☐
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases. ☐
- (f) Standard Management – Cases that do not fall into any one of the other tracks. 555 ☒

NOV 19 2018

Date

*Dea M. M...*  
Deputy Clerk

Attorney for

Telephone

FAX Number

E-Mail Address

MAK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

David Robert Roth, Pro Se

(In the space above enter the full name(s) of the plaintiff(s).)

18 5010

- against -

Prime Care, ET AL

Prime Care @ Montgomery County Prison

Dr. Sestito, Primecare @ Mont. County Prison

Nurse Judy, Primecare @ Mont. County Prison

C.O. Bisher, Mont. County Prison

C.O. Capt. Reilly, Mont. County Prison

Prime care @ Berks County Prison

Mitzie Montz, Primecare @ Berks County Prison

P.A. Jense, Primecare @ Berks County Prison

D.W. Smith, Berks County Prison

RN Sam, Primecare @ Berks County

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

COMPLAINT

under the  
Civil Rights Act, 42 U.S.C. § 1983  
(Prisoner Complaint)

Jury Trial: ☒ Yes ☐ No  
(check one)

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name David Robert Roth  
ID # 2014-5597  
Current Institution Berk County Prison  
Address 1287 County Welfare Rd  
Leesport, PA 19533-4397

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name Prime Care INC. (company) Shield # \_\_\_\_\_  
Where Currently Employed \_\_\_\_\_  
Address \_\_\_\_\_  
Att: Company C.E.O.

Defendant No. 2 Name Prime Care Mont. Cnty Prison Shield # \_\_\_\_\_  
Where Currently Employed @ Mont Cnty Prison  
Address 60 Eaglesville Rd, Eaglesville PA 19403  
Att: Medical Dept Supervisor

Defendant No. 3 Name Dr. Sertele, Mont. Cnty Prison Shield # \_\_\_\_\_  
Where Currently Employed Primecare @ Mont Cnty Prison  
Address 60 Eaglesville Rd, Eaglesville PA 19403  
Att: Medical Dept

Defendant No. 4 Name Nurse Judy, Mont. Cnty Prison Shield # \_\_\_\_\_  
Where Currently Employed Primecare @ Mont Cnty Prison  
Address 60 Eaglesville Rd, Eaglesville PA 19403  
Att: Medical Dept

Defendant No. 5 Name C.O. Baker Shield # \_\_\_\_\_  
Where Currently Employed Mont. Cnty Prison  
Address 60 Eaglesville Rd, Eaglesville PA 19403

## II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. In what institution did the events giving rise to your claim(s) occur? Berks County Prison  
and Montgomery County Prison
- B. Where in the institution did the events giving rise to your claim(s) occur? \_\_\_\_\_
- C. What date and approximate time did the events giving rise to your claim(s) occur? \_\_\_\_\_

*Continued*

- (B.) List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 10 Name C.O. Capt Reilly Shield # \_\_\_\_\_  
 Where Currently Employed Montgomery County Prison  
 Address 60 Englewood Rd, Englewood PA 17403

Defendant No. 7 Name Prisoner @ Berks County Prison Shield # \_\_\_\_\_  
 Where Currently Employed Berks County Prison  
 Address 1237 County Welfare Rd., Leesport PA 19533  
Att: Medical Dept.

Defendant No. 8 Name Mitzy Monty, RN HSN Shield # \_\_\_\_\_  
 Where Currently Employed Prisoner @ Berks County Prison  
 Address 1237 County Welfare Rd, Leesport PA 19533  
Att: Medical Dept

Defendant No. 4 Name P.A. Jesse Kirsch Shield # \_\_\_\_\_  
 Where Currently Employed Prisoner @ Berks County Prison  
 Address 1237 County Welfare Rd, Leesport PA 19533  
Att: Medical Dept

Defendant No. 5 Name Deputy Warden Smith Shield # \_\_\_\_\_  
 Where Currently Employed Berks County Prison  
 Address 1237 County Welfare Rd, Leesport PA, 19533  
Att: Berks County Warden Office

## II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur? \_\_\_\_\_

B. Where in the institution did the events giving rise to your claim(s) occur? \_\_\_\_\_

C. What date and approximate time did the events giving rise to your claim(s) occur? \_\_\_\_\_

(Continued)  
(B.)

List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 11 Name RN, Nurse Sam Shield # \_\_\_\_\_  
 Where Currently Employed Primercare @ Berks County Prison  
 Address 1287 County Welfare Rd. Leesport PA 19533  
Att: Medical Dept.

Defendant No. 12 Name \_\_\_\_\_ Shield # \_\_\_\_\_  
 Where Currently Employed \_\_\_\_\_  
 Address \_\_\_\_\_

Defendant No. 13 Name \_\_\_\_\_ Shield # \_\_\_\_\_  
 Where Currently Employed \_\_\_\_\_  
 Address \_\_\_\_\_

Defendant No. 14 Name \_\_\_\_\_ Shield # \_\_\_\_\_  
 Where Currently Employed \_\_\_\_\_  
 Address \_\_\_\_\_

Defendant No. 15 Name \_\_\_\_\_ Shield # \_\_\_\_\_  
 Where Currently Employed \_\_\_\_\_  
 Address \_\_\_\_\_

## II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur? \_\_\_\_\_

B. Where in the institution did the events giving rise to your claim(s) occur? \_\_\_\_\_

C. What date and approximate time did the events giving rise to your claim(s) occur? \_\_\_\_\_

What happened to you?

D. Facts: Prior to my incarceration at (M.C.F.) (B.C.P.) I received to prostate<sup>(2)</sup> surgery by Dr. Steven Stennis at Einstein Hospital, Philadelphia PA. I was told I'd be watched for cancer. At Mont Airy Prison I had a open wound from surgery and a catheter inserted in my bladder. Between the dates of Aug 2016 - June 2017 it became infected I continued to have (UTI's) prescribed antibiotics that did not work. Prison doctor and Nurses refused to abide by Urologist orders denied me medication, pulled out my catheter attempted to re-insert it puncturing a hole in my bladder causing me severe pain and anguish I was rushed to the (E.R.) after so many deliberate mistakes by Prison care staff the doctors refused to see me. Because of this to date I still cannot get corrective surgery and I still suffer from (UTI's). Between June 2017 to December 2017 I was in Bucks County Prison, where Prison care Medical has further continued to deny me medical attention, medication, prolonged my pain and injury refused to properly treat my catheter wound. Lastly I was verbally harassed and threatened with bodily harm, abused, degraded, by C.O staff who also denied me my right to proceed with my grievance procedure. All staff have been named and are mentioned in my attached Exhibits. In ending I suffer from PTSD, ADD, and from traumatic brain injury these issues caused me to be suicidal and my mental health deteriorated yet I was still denied any treatment. PA Jesse (Banks) for over prescribing antibiotics when not needed or without even doing tests first, causing side effects (stomach pains, always tired, nausea, diarrhea)

Who did what?

Was anyone else involved?

Who else saw what happened?

### III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

- Ruptured bladder requiring 2nd Surgery
- PTSD from medical malpractice disobeying doctors orders
- Worsening UTI's going on being medicinally mistreated, or untreated after held about
- Stomach ulcers due over medicating with different meds, over use of some med
- over use of antibiotics when unnecessary or further studies should of been done to see why body was refusing antibiotics

### IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a



prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☒ No ☐

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Mont. Cnty Prison dates: August 2016 - June 2017  
Berks Cnty Prison dates: June 2017 - December 2017 February 2018 - to present

- B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes ☒ No ☐ Do Not Know ☐

- C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes ☒ No ☐ Do Not Know ☐

If YES, which claim(s)? Improper Care of Catheter Insertion, Bloodstream Infection  
Failure to abide by Surgeon's orders, Refusal to medicate, Malicious Intentional Injury  
Retaliation, threats, denying medical care, over use of antibiotics or when not needed

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes ☒ No ☒ Yes, Berks County Prison  
No, Mont Cnty Prison

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ☐ No ☒ Note: was denied the right to grieve issues at Mont Cnty Prison due to threats and retaliation

- E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

Berks County Prison

1. Which claim(s) in this complaint did you grieve? All of Section C.

2. What was the result, if any? No Results,

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process. Maxine Appeal to Prisoner Care and Deputy Warden Smith, Berks County Solicitor Christine Sisker, Mont Cnty Solicitor Shelley Smith



F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here: did Not  
file a Grievance process of Mont Co. Prison due to  
threats, Retaliation, Intentional injuries, threats of bodily  
harm. Threats by Capt. Bailey (in paperwork)
2. If you did not file a grievance but informed any officials of your claim, state who you  
informed, when and how, and their response, if any: Mont Co. Solicitor  
Shelley Smith (see: Attached letter & Grievance Forms  
Exhibit # 4 )

- G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. I include in this section in support of my claims  
and exhaustion of my administrative remedies. All attached  
exhibits which include Request/Communication forms, Sick Call Request,  
Grievance forms and Responses, letters to Prisoners and  
Solicitor of Berks County & Mont Co.

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount). to force Prisoners to set up Surgery to  
correct the damage committed by FBI July 1 Dr. Smith.  
to properly control and diagnose severe urinary tract infections

For Primecare Inc. to establish better procedures for emergency activation  
 For Punitive damages I request the sum from the following:

- Primecare Inc Company - \$ 350,000 dollars
  - Primecare @ Mont. City Person - \$ 350,000 dollars plus loss of Contract
  - RN Judy @ Mont. City Person - \$ 50,000 dollars plus Job loss
  - Dr. Serice @ Mont. City Person - \$ 150,000 dollars plus Job loss
  - CO Bicker @ Mont. City Person - \$ 5,000 dollars plus Job loss
  - CO Capt. Reilly @ Mont. City Person - \$ 25,000 dollars plus Job loss
  - Primecare @ Berks County Person - \$ 350,000 dollars plus loss of Contract
  - Mitzi Monty @ Berks County Person - \$ 25,000 dollars plus Job loss
  - P.A. Jesse @ Berks County Person - \$ 50,000 dollars plus Job loss
  - D.W. Smith @ Berks County Person - \$ 50,000 dollars plus Job loss
- all related to injuries, threats, Pain, Suffering, Mental, Emotional Anguish and abuse, denial of Medical treatment, Nurses unqualified to deal with surgeries
- Nurse RN Gann @ Berks County Person - \$ 10,000 plus loss of job
- For Pain & Suffering, Employing incompetent staff, allowing unqualified staff to handle surgery, Staff disobeying thickest orders, conducting procedures not allowed by staff, denial of proper care and Medication
- I want Primecare Medical Inc. to pay the sum of as follows:
- Primecare Medical Inc (Corp) - \$ 750,000 - to pay for surgery, after care and continued medical care until properly healed and Released by competent doctors
- Total Monetary damages \$ 2,145,000 dollars

#### VI. Previous lawsuits:

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes \_\_\_\_\_ No ☒

- B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff \_\_\_\_\_

Defendants \_\_\_\_\_

2. Court (if federal court, name the district; if state court, name the county) \_\_\_\_\_

3. Docket or Index number \_\_\_\_\_

4. Name of Judge assigned to your case \_\_\_\_\_
5. Approximate date of filing lawsuit \_\_\_\_\_
6. Is the case still pending? Yes \_\_\_\_ No \_\_\_\_
- If NO, give the approximate date of disposition \_\_\_\_\_
7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

On  
other  
claims

C. Have you filed other lawsuits in state or federal court?

Yes \_\_\_\_ No ☒

D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff \_\_\_\_\_

Defendants \_\_\_\_\_

2. Court (if federal court, name the district; if state court, name the county) \_\_\_\_\_

3. Docket or Index number \_\_\_\_\_

4. Name of Judge assigned to your case \_\_\_\_\_

5. Approximate date of filing lawsuit \_\_\_\_\_

6. Is the case still pending? Yes \_\_\_\_ No \_\_\_\_

If NO, give the approximate date of disposition \_\_\_\_\_

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**I declare under penalty of perjury that the foregoing is true and correct.**

Signed this 15 day of July, 2018.

Signature of Plaintiff

*David R. [Signature]*

Inmate Number

2014-5597 BCP\*  
14-07530 MCCF\*

Institution Address David Roth, Prison #204-5597  
Berks County Prison  
1287 County Welfare Rd  
Leesport PA 19533

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 15 day of July, 20 18, I am delivering this complaint to prison authorities to be mailed to the Clerk's Office of the United States District Court for the Eastern District of Pennsylvania.

Signature of Plaintiff: David Roth

Court of Common Pleas  
Civil Cover Sheet

County

For Prothonotary Use Only:

Docket No:

FILED

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

Commencement of Action:

- ☒ Complaint ☐ Writ of Summons ☐ Petition  
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name:

David R. Roth

Lead Defendant's Name:

PrimeCare Medical Inc.

Are money damages requested? ☒ Yes ☐ No

Dollar Amount Requested: ☒ within arbitration limits  
(check one) ☐ outside arbitration limits

Is this a Class Action Suit? ☐ Yes ☒ No

Is this an MDJ Appeal? ☐ Yes ☒ No

Name of Plaintiff/Appellant's Attorney:

☒ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

SECTION B

**Nature of the Case:** Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

**TORT** (do not include Mass Tort)

- ☐ Intentional  
☐ Malicious Prosecution  
☐ Motor Vehicle  
☐ Nuisance  
☐ Premises Liability  
☐ Product Liability (does not include mass tort)  
☐ Slander/Libel/ Defamation  
☐ Other:

**CONTRACT** (do not include Judgments)

- ☐ Buyer Plaintiff  
☐ Debt Collection: Credit Card  
☐ Debt Collection: Other  
  
☐ Employment Dispute: Discrimination  
☐ Employment Dispute: Other  
  
☐ Other:

**CIVIL APPEALS**

- Administrative Agencies  
☐ Board of Assessment  
☐ Board of Elections  
☐ Dept. of Transportation  
☐ Statutory Appeal: Other  
  
☐ Zoning Board  
☐ Other:

**MASS TORT**

- ☐ Asbestos  
☐ Tobacco  
☐ Toxic Tort - DES  
☐ Toxic Tort - Implant  
☐ Toxic Waste  
☐ Other:

**REAL PROPERTY**

- ☐ Ejectment  
☐ Eminent Domain/Condemnation  
☐ Ground Rent  
☐ Landlord/Tenant Dispute  
☐ Mortgage Foreclosure: Residential  
☐ Mortgage Foreclosure: Commercial  
☐ Partition  
☐ Quiet Title  
☐ Other:

**MISCELLANEOUS**

- ☐ Common Law/Statutory Arbitration  
☐ Declaratory Judgment  
☐ Mandamus  
☐ Non-Domestic Relations Restraining Order  
☐ Quo Warranto  
☐ Replevin  
☐ Other:

**PROFESSIONAL LIABILITY**

- ☐ Dental  
☐ Legal  
☒ Medical  
☐ Other Professional:

## **NOTICE**

**Pennsylvania Rule of Civil Procedure 205.5. (Cover Sheet) provides, in part:**

**Rule 205.5. Cover Sheet**

(a)(1) This rule shall apply to all actions governed by the rules of civil procedure except the following:

- (i) actions pursuant to the Protection from Abuse Act, Rules 1901 et seq.
- (ii) actions for support, Rules 1910.1 et seq.
- (iii) actions for custody, partial custody and visitation of minor children, Rules 1915.1 et seq.
- (iv) actions for divorce or annulment of marriage, Rules 1920.1 et seq.
- (v) actions in domestic relations generally, including paternity actions, Rules 1930.1 et seq.
- (vi) voluntary mediation in custody actions, Rules 1940.1 et seq.

(2) At the commencement of any action, the party initiating the action shall complete the cover sheet set forth in subdivision (e) and file it with the prothonotary.

(b) The prothonotary shall not accept a filing commencing an action without a completed cover sheet.

(c) The prothonotary shall assist a party appearing pro se in the completion of the form.

(d) A judicial district which has implemented an electronic filing system pursuant to Rule 205.4 and has promulgated those procedures pursuant to Rule 239.9 shall be exempt from the provisions of this rule.

(e) The Court Administrator of Pennsylvania, in conjunction with the Civil Procedural Rules Committee, shall design and publish the cover sheet. The latest version of the form shall be published on the website of the Administrative Office of Pennsylvania Courts at [www.pacourts.us](http://www.pacourts.us).

Court of Common Pleas  
Civil Cover Sheet

Montgomery

County

For Prothonotary Use Only:

Docket No:

FILED

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

Commencement of Action:

- ☒ Complaint ☐ Writ of Summons ☐ Petition  
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name:

David Robert Roth

Lead Defendant's Name:

PrimeCare Medical Inc

Are money damages requested? ☒ Yes ☐ No

Dollar Amount Requested: ☒ within arbitration limits  
(check one) ☐ outside arbitration limits

Is this a Class Action Suit? ☐ Yes ☒ No

Is this an MDJ Appeal? ☐ Yes ☒ No

Name of Plaintiff/Appellant's Attorney:

☒ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

SECTION B

**Nature of the Case:** Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

**TORT** (do not include Mass Tort)

- ☐ Intentional  
☐ Malicious Prosecution  
☐ Motor Vehicle  
☐ Nuisance  
☐ Premises Liability  
☐ Product Liability (does not include mass tort)  
☐ Slander/Libel/ Defamation  
☐ Other:

**MASS TORT**

- ☐ Asbestos  
☐ Tobacco  
☐ Toxic Tort - DES  
☐ Toxic Tort - Implant  
☐ Toxic Waste  
☐ Other:

**PROFESSIONAL LIABILITY**

- ☐ Dental  
☐ Legal  
☒ Medical  
☐ Other Professional:

**CONTRACT** (do not include Judgments)

- ☐ Buyer Plaintiff  
☐ Debt Collection: Credit Card  
☐ Debt Collection: Other  
  
☐ Employment Dispute: Discrimination  
☐ Employment Dispute: Other  
  
☐ Other:

**REAL PROPERTY**

- ☐ Ejectment  
☐ Eminent Domain/Condemnation  
☐ Ground Rent  
☐ Landlord/Tenant Dispute  
☐ Mortgage Foreclosure: Residential  
☐ Mortgage Foreclosure: Commercial  
☐ Partition  
☐ Quiet Title  
☐ Other:

**CIVIL APPEALS**

- Administrative Agencies  
☐ Board of Assessment  
☐ Board of Elections  
☐ Dept. of Transportation  
☐ Statutory Appeal: Other  
  
☐ Zoning Board  
☐ Other:

**MISCELLANEOUS**

- ☐ Common Law/Statutory Arbitration  
☐ Declaratory Judgment  
☐ Mandamus  
☐ Non-Domestic Relations Restraining Order  
☐ Quo Warranto  
☐ Replevin  
☐ Other:



## **NOTICE**

**Pennsylvania Rule of Civil Procedure 205.5. (Cover Sheet) provides, in part:**

**Rule 205.5. Cover Sheet**

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- (iii) actions for custody, partial custody and visitation of minor children, Rules 1915.1 et seq.
- (iv) actions for divorce or annulment of marriage, Rules 1920.1 et seq.
- (v) actions in domestic relations generally, including paternity actions, Rules 1930.1 et seq.
- (vi) voluntary mediation in custody actions, Rules 1940.1 et seq.

(2) At the commencement of any action, the party initiating the action shall complete the cover sheet set forth in subdivision (e) and file it with the prothonotary.

(b) The prothonotary shall not accept a filing commencing an action without a completed cover sheet.

(c) The prothonotary shall assist a party appearing pro se in the completion of the form.

(d) A judicial district which has implemented an electronic filing system pursuant to Rule 205.4 and has promulgated those procedures pursuant to Rule 239.9 shall be exempt from the provisions of this rule.

(e) The Court Administrator of Pennsylvania, in conjunction with the Civil Procedural Rules Committee, shall design and publish the cover sheet. The latest version of the form shall be published on the website of the Administrative Office of Pennsylvania Courts at [www.pacourts.us](http://www.pacourts.us).

CERTIFICATE OF MERIT

I, DAVID R. ROTH, AM WRITING THIS LETTER TO CONFIRM THAT MY UROLOGIST/SURGEON DR. SIMHAN DOES KNOW ABOUT THE THINGS PRIME CARE PROVIDERS AND NURSES DID TO ME. HE KNOWS ABOUT THE TIME, IN AND AROUND JANURARY 2017 AND JUNE 2017, AFTER HE COMPLETED SURGERY ON ME AT EINSTEIN MONTGOMERY HOSPITAL THAT RN JUDY(WHO WORKS 2nd SHIFT AND IS ALWAYS THE NURSE IN CHARGE), UNSUCCESSFULLY TRIED PUTTING OR STICKING A STRAIGHT CATHETER INTO MY BLADDER THROUGH MY SURGERY SIGHT, THROUGH THE WRONG HOLE. THEN DR. SIMHAN WAS INFORMED OF ANOTHER TIME WHEN DR. SUSTITO TRIED UNSUCCESSFULLY INSERTING A STRAIGHT CATHETER INTO THE WRONG HOLE TO EMPTY MY BLADDER. EACH TIME PEOPLE WERE INFORMED BY ME THAT THEY WERE NOT SUPPOSE TO TRY TO CATHETERIZE ME, INSTRUCTIONS FROM DR. SIMHAN (BECAUSE I WAS TAUGHT HOW TO INSERT CATHETER BECAUSE THERE WAS A WAY YOU HAD TO HOLD THE CATHETER), BOTH TIMES FAILED TO FOLLOW MY SURGENS ORDERS. THEY BOTH TOLD ME THAT I WASNT GOING TO THE HOSPITAL TILL THEY TRIED CATHETERIZING ME. ANOTHER INCIDENT DR. SIMHAN KNOWS ABOUT IS IN AND AROUND 04-2017, APRIL, WHILE IN MONTGOMERY COUNTY CORRECTIONS FACILITY AND IN A REGULAR UNIT, I GOT INTO A ALTERCATION(PHYSICAL), WITH ANOTHER INMATE. WHEN THAT INMATE CAME INTO MY CELL AND WHILE ON THE GROUND, TRIED YANKING OR PULLING MY CATHETER OUT OF MY BODY. (THAT SAME NIGHT I WENT TO EINSTIEN MONTGOMERY ER FOR PAIN IN MY BLADDER AND DISCOMFORT FROM INMATE TRYING TO PULL IT OUT). I DID SEE DR. SIMHAN IN HIS PRIVATE OFFICE WHILE AT MCCF AND AFTER THE INCIDENTS OCCURRED. HE ALSO TRIED TO GET THE CATHETER INTO THE SAME HOLE THAT BOTH, RN JUDY AND DR. SUSTITE DID AND WAS UNSUCCESSFUL. I LATER WENT TO READING HOSPITAL INTERVENTION RADIOLOGY DEPARTMENT TO GET A SUPER PUBIC CATHETER PLACED INTO SURGURY SIGHT. THATS WHEN DR. SAKS SAW ON A CATSCAN SCREEN THAT THE HOLE THEY (JUDY AND SUSTITE) WERE TRYING TO USE AND IT WENT NOWHERE NEAR BLADDER. FROM THESE THREE EVENTS I AM NOW HAVING TO SELF CATHETER (WHICH I CAN'T DO ANYMORE THATS WHY I NEED SURGURY), SO I AM STUCK WITH A SUPER PUBIC CATHETER INSERTED PERMANENTLY INTO MY BODY! THIS IS UNTIL DR. SIMHAN WILL DO ANOTHER SURGURY TO OPEN UP MY OTHER CATHSIGHT. (I HAD TO LET MY SURGICAL CREATED CATHETER SIGHT CLOSE DUE TO THESE THREE EVENTS, NOW DR. SIMHAN TOLD ME HE WONT DO THE SURGURY TO OPEN THE SIGHT BACK UP, HE STATED THAT HE DOESN'T WANT PRIME CARE TO HAVE TO TAKE CARE OF ME AGAIN AND SCREW IT UP. SO NOW IM STUCK WITH ALWAYS HAVING A CATH IN MY ADDOMEN AND IT CAUSES A LOT OF DISCOMFORT AND PAIN, ALONG WITH A LOT OF UTIS.(ALL DOCUMENTED.)

DR. SIMHAN (EINSTIEN MEDICAL)  
 633 W. GERMANTOWN PIKE SUITE 203  
 plymouth meeting pa. 19462-1032  
 (610) 233-3130

NOV 19 2018

IN THE COURT OF COMMON PLEAS OF Berks COUNTY, PENNSYLVANIA  
COVER SHEET

David R. Roth, P.C.  
PLAINTIFF(S)

VS.

Prime Case, ETAL  
DEFENDANT(S)

Montgomery County / Berks County Prisoners

PREVIOUS JUDGE

ASSIGNED JUDGE

RELATED CASE NUMBER(S)

CIVIL 42 U.S.C. § 1983  
TYPE OF ACTION

FOR PLAINTIFF:

David R. Roth, P.C.  
NAME OF ATTORNEY

1287 COUNTY WELFARE DRIVE  
ADDRESS OF ATTORNEY

READING PA 19533-9397  
ADDRESS OF ATTORNEY

PHONE NUMBER OF ATTORNEY

FAX NUMBER OF ATTORNEY

E-MAIL ADDRESS OF ATTORNEY

FOR DEFENDANT:

NAME OF ATTORNEY

ADDRESS OF ATTORNEY

ADDRESS OF ATTORNEY

PHONE NUMBER OF ATTORNEY

FAX NUMBER OF ATTORNEY

E-MAIL ADDRESS OF ATTORNEY

COMPLAINT UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983  
TITLE OF DOCUMENT

David R. Roth  
SUBMITTED BY

000003

Case 5:18-cv-05010-MAK Document 2 Filed 11/19/18 Page 19 of 142  
IN THE COURT OF COMMON PLEAS OF COUNTY, PENNSYLVANIA  
CIVIL DIVISION

David R. Roth, Pro Se

versus

PrimeCare ETAL  
Medical Inc.

:  
: Case No.  
:  
:  
:

NOTICE TO DEFEND

Pursuant to PA RCP No. 1018.1

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Montgomery County Bar Association  
Lawyer Referral Service  
610-261-1234

Effective September 1, 2003 Complaint PA R.C.P. 1018.1

EN LA CORTE DE ALEGATOS COMÚN DEL CONDADO DE YORK, PENNSYLVANIA  
DIVISIÓN CIVIL

AVISO PARA DEFENDER

Conforme a PA RCP Núm. 1018.1

USTED HA SIDO DEMANDADO/A EN LA CORTE. Si usted desea defender contra la demanda puestas en las siguientes páginas, usted tienen que tomar acción dentro veinte (20) días después que esta Demanda y Aviso es servido, con entrando por escrito una aparencia personalmente o por un abogado y archivando por escrito con la Corte sus defensas o objeciones a las demandas puestas en esta contra usted. Usted es advertido que si falla de hacerlo el caso puede proceder sin usted y un juzgamiento puede ser entrado contra usted por la Corte sin más aviso por cualquier dinero reclamado en la Demanda o por cualquier otro reclamo o alivio solicitado por Demandante. Usted puede perder dinero o propiedad o otros derechos importante para usted.

USTED DEBE LLEVAR ÉSTE PAPEL A SU ABOGADO ENSEGUIDA. SI USTED NO TIENE UN ABOGADO, VAYA O LLAME POR TELÉFONO LA OFICINA FIJADA AQUÍ ABAJO. ESTA OFICINA PUEDE PROVEERÉ CON INFORMACIÓN DE CÓMO CONSEGUIR UN ABOGADO.

SI USTED NO PUEDE PAGARLE A UN ABOGADO, ÉSTA OFICINA PUEDE PROVEERÉ INFORMACIÓN ACERCA AGENCIAS QUE PUEDAN OFRECER SERVICIOS LEGAL A PERSONAS ELIGIBLE AQ UN HONORARIO REDUCIDO O GRATIS.

Efectivo 1 de septiembre, 2003 Queja

Case 5:18-cv-05010-MAK Document 2 Filed 11/19/18 Page 20 of 142  
IN THE COURT OF COMMON PLEAS OF <sup>Berks</sup> COUNTY, PENNSYLVANIA  
CIVIL DIVISION

David R. Roth, ProSe

versus

PrimeCare ETAL  
Medical Inc.

:  
: Case No.  
:  
:  
:

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Berks County Bar Association  
Lawyer Referral Service

544 Court Street

Reading PA, 19603

(610) 395-4591

Effective September 1, 2003 Complaint PA R.C.P. 1018.1

EN LA CORTE DE ALEGATOS COMÚN DEL CONDADO DE YORK, PENNSYLVANIA  
DIVISIÓN CIVIL

AVISO PARA DEFENDER

Conforme a PA RCP Núm. 1018.1

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USTED DEBE LLEVAR ÉSTE PAPEL A SU ABOGADO ENSEGUIDA. SI USTED NO TIENE UN ABOGADO, VAYA O LLAME POR TELÉFONO LA OFICINA FIJADA AQUÍ ABAJO. ESTA OFICINA PUEDE PROVEERÉ CON INFORMACIÓN DE CÓMO CONSEGUIR UN ABOGADO.

SI USTED NO PUEDE PAGARLE A UN ABOGADO, ÉSTA OFICINA PUEDE PROVEERÉ INFORMACIÓN ACERCA AGENCIAS QUE PUEDAN OFRECER SERVICIOS LEGAL A PERSONAS ELIGIBLE AQ UN HONORARIO REDUCIDO O GRATIS.

## EXHIBIT 1

Contents: Sick Call slips to Medical Dept.

# PrimeCare Medical, Inc.

— SICK CALL REQUEST / PETICIÓN DE ENFERMERIA —

NAME / NOMBRE David Roth DATE / FECHA 8/25/17

PATIENT NUMBER / NÚMERO DE IDENTIFICACIÓN DEL PACIENTE 2014-5597

DATE OF BIRTH / FECHA DE NACIMIENTO 2/11/87

UNIT / CELL / (UNIDAD / CELULA) At N:12

(TO BE COMPLETED BY PATIENT) / (PARA SER COMPLETADA POR PACIENTE)

REASON FOR REQUEST / RAZÓN DE LA SOLICITUD I would like to cancel my appt. with your urologist, because its not my urologist

Thanks

(TO BE COMPLETED BY MEDICAL STAFF) / (PARA SER COMPLETADO POR EL PERSONAL)

DATE RECEIVED IN MEDICAL: 8/25/17

RESPONSE: THANKS

Mr. Roth - At this time due to your medical needs we encourage you keep this appointment. When you are released you can follow with your doctor. - Not true, on 9/18 I saw PA Jessie and he made me an appt. with my urologist

(SIGNATURE)

(DATE)

# PrimeCare Medical, Inc.

— SICK CALL REQUEST / PETICIÓN DE ENFERMERIA —

NAME / NOMBRE David Roth DATE / FECHA 10/17/17

PATIENT NUMBER / NÚMERO DE IDENTIFICACIÓN DEL PACIENTE 2014-5597

DATE OF BIRTH / FECHA DE NACIMIENTO 2/11/87

UNIT / CELL / (UNIDAD / CELULA) M101

(TO BE COMPLETED BY PATIENT) / (PARA SER COMPLETADA POR PACIENTE)

REASON FOR REQUEST / RAZÓN DE LA SOLICITUD I have been getting a lot of headaches lately, I worry about it because of my brain surgery. When I get headaches they are bad. Its hard to sleep. I dont know if its stress or because I am off my nerve med Neurontin. I havent had my seizure med levels checked in

8/20

(TO BE COMPLETED BY MEDICAL STAFF) / (PARA SER COMPLETADO POR EL PERSONAL)

DATE RECEIVED IN MEDICAL: 8/20

RESPONSE:

St scheduled 2 hrs 10/26

(SIGNATURE) (DATE)



**PrimeCare Medical, Inc.****— SICK CALL REQUEST / PETICIÓN DE ENFERMERIA —**NAME / NOMBRE David Roth DATE / FECHA 6/7/18PATIENT NUMBER / NÚMERO DE IDENTIFICACIÓN DEL PACIENTE 2014-5597DATE OF BIRTH / FECHA DE NACIMIENTO 2/11/87(UNIT / CELL) / (UNIDAD / CELULA) M208

(TO BE COMPLETED BY PATIENT) / (PARA SER COMPLETADA POR PACIENTE)

REASON FOR REQUEST / RAZÓN DE LA SOLICITUD Would like to  
see Jesse. The med he put me on  
is making me sick and stomach(TO BE COMPLETED BY MEDICAL STAFF) /  
(PARA SER COMPLETADO POR EL PERSONAL)DATE RECEIVED IN MEDICAL: 6/8/18 SL triage ALUPNRESPONSE: 6/9/18 SK scheduled ALUPN

(SIGNATURE)

(DATE)

**PrimeCare Medical, Inc.****— SICK CALL REQUEST / PETICIÓN DE ENFERMERIA —**NAME / NOMBRE David Roth DATE / FECHA 6/7/18PATIENT NUMBER / NÚMERO DE IDENTIFICACIÓN DEL PACIENTE 2014-5597DATE OF BIRTH / FECHA DE NACIMIENTO 2/11/87(UNIT / CELL) / (UNIDAD / CELULA) M208

(TO BE COMPLETED BY PATIENT) / (PARA SER COMPLETADA POR PACIENTE)

REASON FOR REQUEST / RAZÓN DE LA SOLICITUD I'm still having  
a lot of discomfort with my catheter and  
it hurts really bad. Please can I see Jesse  
and change me(TO BE COMPLETED BY MEDICAL STAFF) /  
(PARA SER COMPLETADO POR EL PERSONAL)DATE RECEIVED IN MEDICAL: 6/14/18 SL triage ALUPNRESPONSE: SK scheduled E. Shuman

(SIGNATURE)

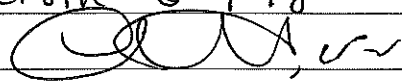
(DATE)

**PrimeCare Medical, Inc.****— SICK CALL REQUEST / PETICIÓN DE ENFERMERIA —**NAME / NOMBRE David Roth DATE / FECHA 6/9/18PATIENT NUMBER / NÚMERO DE IDENTIFICACIÓN DEL PACIENTE 2014-5597DATE OF BIRTH / FECHA DE NACIMIENTO 2/11/87(UNIT / CELL) / (UNIDAD / CELULA) M208

(TO BE COMPLETED BY PATIENT) / (PARA SER COMPLETADA POR PACIENTE)

REASON FOR REQUEST / RAZÓN DE LA SOLICITUD Cipro is not  
working and im urinating blood my urine  
stinks bad and my back hurts bad  
please im in extreme discomfort  
would like to see Jesse

(TO BE COMPLETED BY MEDICAL STAFF) /  
 (PARA SER COMPLETADO POR EL PERSONAL)

DATE RECEIVED IN MEDICAL: 6/9/18 SIC triage ALUWRESPONSE: seen by nursing 6-9-18  


(SIGNATURE)

(DATE)

**PrimeCare Medical, Inc.****— SICK CALL REQUEST / PETICIÓN DE ENFERMERIA —**NAME / NOMBRE David Roth DATE / FECHA 6/11/18PATIENT NUMBER / NÚMERO DE IDENTIFICACIÓN DEL PACIENTE 2014-5597DATE OF BIRTH / FECHA DE NACIMIENTO 2/11/87(UNIT / CELL) / (UNIDAD / CELULA) M208

(TO BE COMPLETED BY PATIENT) / (PARA SER COMPLETADA POR PACIENTE)

REASON FOR REQUEST / RAZÓN DE LA SOLICITUD Just put a sick call  
in saying my Cipro is not working. Im in serious  
discomfort and pissing blood. I think it should be  
a matter that I get seen.

(TO BE COMPLETED BY MEDICAL STAFF) /  
 (PARA SER COMPLETADO POR EL PERSONAL)

DATE RECEIVED IN MEDICAL: triage 6/11/18 ASDRESPONSE: SIC scheduled

(SIGNATURE)

(DATE)

**PrimeCare Medical, Inc.****— SICK CALL REQUEST / PETICIÓN DE ENFERMERIA —**NAME / NOMBRE David Roth DATE / FECHA 6/16/18PATIENT NUMBER / NÚMERO DE IDENTIFICACIÓN DEL PACIENTE 2014-5547DATE OF BIRTH / FECHA DE NACIMIENTO 3/11/57(UNIT / CELL) / (UNIDAD / CELULA) MAGE

(TO BE COMPLETED BY PATIENT) / (PARA SER COMPLETADA POR PACIENTE)

REASON FOR REQUEST / RAZÓN DE LA SOLICITUD My UTI won'tgo away, im urinating blood, it hurts to urinate  
and sharp pains and discomfort what must I do  
get answers round here?(TO BE COMPLETED BY MEDICAL STAFF) /  
(PARA SER COMPLETADO POR EL PERSONAL)DATE RECEIVED IN MEDICAL: Tracy 6/17/18 ASD (M.P.A)RESPONSE: Sched to see provider  
Al N. Jr

(SIGNATURE)

(DATE)

**PrimeCare Medical, Inc.****— SICK CALL REQUEST / PETICIÓN DE ENFERMERIA —**NAME / NOMBRE David Roth DATE / FECHA 6/18/18PATIENT NUMBER / NÚMERO DE IDENTIFICACIÓN DEL PACIENTE 2014-5547DATE OF BIRTH / FECHA DE NACIMIENTO 3/11/57(UNIT / CELL) / (UNIDAD / CELULA) MAGE

(TO BE COMPLETED BY PATIENT) / (PARA SER COMPLETADA POR PACIENTE)

REASON FOR REQUEST / RAZÓN DE LA SOLICITUD I really need to seeDr Jesse - it says in the rulebook that I can but must pay for  
getting test and have so much. All I do is sleep all day because  
when I start moving it hurts. Please. Also if your going to make  
an appointment with my urologist I will not go to see Dr. Sunhan  
I will only see Dr. Stearns. If you can't see me at least put me  
back on the list and thank you!(TO BE COMPLETED BY MEDICAL STAFF) /  
(PARA SER COMPLETADO POR EL PERSONAL)DATE RECEIVED IN MEDICAL: 6/18/18RESPONSE: Traged M.K. JrYou are on the list to see  
the provider

(SIGNATURE)

(DATE)

**PrimeCare Medical, Inc.****— SICK CALL REQUEST / PETICIÓN DE ENFERMERIA —**NAME / NOMBRE David Roth DATE / FECHA <sup>7/11/18</sup>6/30/18PATIENT NUMBER / NÚMERO DE IDENTIFICACIÓN DEL PACIENTE 2014-5597DATE OF BIRTH / FECHA DE NACIMIENTO 2/11/87(UNIT / CELL) / (UNIDAD / CELULA) M208

(TO BE COMPLETED BY PATIENT) / (PARA SER COMPLETADA POR PACIENTE)

REASON FOR REQUEST / RAZÓN DE LA SOLICITUD The new antibioticis not working and the pain is getting worse.This is so cruel to let someone deal with itthen give them proper medical care. Can't sleep(TO BE COMPLETED BY MEDICAL STAFF) /  
(PARA SER COMPLETADO POR EL PERSONAL)DATE RECEIVED IN MEDICAL: 7/11/18RESPONSE: Magda MironS/C Scheduled 7/11/18 sedated PA

(SIGNATURE)

(DATE)

**PrimeCare Medical, Inc.****— SICK CALL REQUEST / PETICIÓN DE ENFERMERIA —**NAME / NOMBRE David Roth DATE / FECHA 7/6/18PATIENT NUMBER / NÚMERO DE IDENTIFICACIÓN DEL PACIENTE 2014-5597DATE OF BIRTH / FECHA DE NACIMIENTO 2/11/87(UNIT / CELL) / (UNIDAD / CELULA) M208

(TO BE COMPLETED BY PATIENT) / (PARA SER COMPLETADA POR PACIENTE)

REASON FOR REQUEST / RAZÓN DE LA SOLICITUD PA Pam said she wouldorder a urine culture on 7/4 but ordered the wrong thingand ordered a urine dipstick. So I declined it so someone couldre-order it please. Thank you(TO BE COMPLETED BY MEDICAL STAFF) /  
(PARA SER COMPLETADO POR EL PERSONAL)DATE RECEIVED IN MEDICAL: Image 7/6/18 year MRESPONSE: Tasked provider for review Miron Rv

(SIGNATURE)

(DATE)

**PrimeCare Medical, Inc.****— SICK CALL REQUEST / PETICIÓN DE ENFERMERIA —**NAME / NOMBRE David Roth DATE / FECHA 7/7/18PATIENT NUMBER / NÚMERO DE IDENTIFICACIÓN DEL PACIENTE 2014-559DATE OF BIRTH / FECHA DE NACIMIENTO 2/11/87(UNIT / CELL) / (UNIDAD / CELULA) M208

(TO BE COMPLETED BY PATIENT) / (PARA SER COMPLETADA POR PACIENTE)

REASON FOR REQUEST / RAZÓN DE LA SOLICITUD Having serious  
burning at tip of penis and it hurts to  
move around. It burns to pee(TO BE COMPLETED BY MEDICAL STAFF) /  
(PARA SER COMPLETADO POR EL PERSONAL)

DATE RECEIVED IN MEDICAL: \_\_\_\_\_

RESPONSE: Scheduled to see provider. 7/7 msupn

(SIGNATURE)

(DATE)

**PrimeCare Medical, Inc.****— SICK CALL REQUEST / PETICIÓN DE ENFERMERIA —**NAME / NOMBRE David Roth DATE / FECHA 7/11/18PATIENT NUMBER / NÚMERO DE IDENTIFICACIÓN DEL PACIENTE 2014-5597DATE OF BIRTH / FECHA DE NACIMIENTO 2/11/87(UNIT / CELL) / (UNIDAD / CELULA) M208

(TO BE COMPLETED BY PATIENT) / (PARA SER COMPLETADA POR PACIENTE)

REASON FOR REQUEST / RAZÓN DE LA SOLICITUD Still have UTI  
and have lots of pain and discomfort and  
bleeding.(TO BE COMPLETED BY MEDICAL STAFF) /  
(PARA SER COMPLETADO POR EL PERSONAL)

DATE RECEIVED IN MEDICAL: \_\_\_\_\_

RESPONSE: S/c triage 7/11 msupn  
seen 7-11-18 [signature] 7/12

(SIGNATURE)

(DATE)

**PrimeCare Medical, Inc.****— SICK CALL REQUEST / PETICIÓN DE ENFERMERIA —**NAME / NOMBRE David Roth DATE / FECHA 7/15/18PATIENT NUMBER / NÚMERO DE IDENTIFICACIÓN DEL PACIENTE 2014-5597DATE OF BIRTH / FECHA DE NACIMIENTO 2/11/87(UNIT / CELL) / (UNIDAD / CELULA) M208

(TO BE COMPLETED BY PATIENT) / (PARA SER COMPLETADA POR PACIENTE)

REASON FOR REQUEST / RAZÓN DE LA SOLICITUD Want to get  
tegetol for seizures the Dilantin is  
giving me bad side effects(TO BE COMPLETED BY MEDICAL STAFF) /  
(PARA SER COMPLETADO POR EL PERSONAL)DATE RECEIVED IN MEDICAL: trage 7/17/18 SDRESPONSE: S/C scheduled RN

(SIGNATURE)

(DATE)

**PrimeCare Medical, Inc.****— SICK CALL REQUEST / PETICIÓN DE ENFERMERIA —**ME / NOMBRE David Roth DATE / FECHA 7/20/18PATIENT NUMBER / NÚMERO DE IDENTIFICACIÓN DEL PACIENTE 2014-5597DATE OF BIRTH / FECHA DE NACIMIENTO 2/11/87(UNIT / CELL) / (UNIDAD / CELULA) M208

(TO BE COMPLETED BY PATIENT) / (PARA SER COMPLETADA POR PACIENTE)

REASON FOR REQUEST / RAZÓN DE LA SOLICITUD Still having UTI  
symptoms. Burning through Penis(TO BE COMPLETED BY MEDICAL STAFF) /  
(PARA SER COMPLETADO POR EL PERSONAL)DATE RECEIVED IN MEDICAL: trage 7/20/18 SDRESPONSE: Pt is currently on antibiotics.

(SIGNATURE)

(DATE)

**PrimeCare Medical, Inc.**

— SICK CALL REQUEST / PETICIÓN DE ENFERMERIA —

NAME / NOMBRE David Roth DATE / FECHA 7/25/18

PATIENT NUMBER / NÚMERO DE IDENTIFICACIÓN DEL PACIENTE 2014-5597

DATE OF BIRTH / FECHA DE NACIMIENTO 2/11/87

(UNIT / CELL) / (UNIDAD / CELULA) M208

(TO BE COMPLETED BY PATIENT) / (PARA SER COMPLETADA POR PACIENTE)

REASON FOR REQUEST / RAZÓN DE LA SOLICITUD I asked already

to get my seizure med Dilantin switched to Tegretol  
Im having bad side effects. Also I am still having  
UTI symptoms can you schedule a urine dipstick

(TO BE COMPLETED BY MEDICAL STAFF) /  
(PARA SER COMPLETADO POR EL PERSONAL)

DATE RECEIVED IN MEDICAL: \_\_\_\_\_

RESPONSE: \_\_\_\_\_

(SIGNATURE)

(DATE)

**PrimeCare Medical, Inc.**

— SICK CALL REQUEST / PETICIÓN DE ENFERMERIA —

NAME / NOMBRE David Roth DATE / FECHA 7/25/18

PATIENT NUMBER / NÚMERO DE IDENTIFICACIÓN DEL PACIENTE 2014-5597

DATE OF BIRTH / FECHA DE NACIMIENTO 2/11/87

(UNIT / CELL) / (UNIDAD / CELULA) M208

(TO BE COMPLETED BY PATIENT) / (PARA SER COMPLETADA POR PACIENTE)

REASON FOR REQUEST / RAZÓN DE LA SOLICITUD I asked if I

could switch my seizure med to Tegretol. Having  
bad side effects from Dilantin. Also still having  
UTI symptoms could I get a urine dipstick.

(TO BE COMPLETED BY MEDICAL STAFF) /  
(PARA SER COMPLETADO POR EL PERSONAL)

DATE RECEIVED IN MEDICAL: 7/26/18 sk triage ARW

RESPONSE: Provider tasked ARW

(SIGNATURE)

(DATE)



## EXHIBIT 2

Contents: Grievances and Responses @ Berke County Prison

Inmate Name David Roth BCP# 2014-5597 Cell M 101  
 Date 5/29/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

I was on Cipro for an UTI and just finished it last week. I told a nurse, <sup>3<sup>rd</sup></sup> Wednesday or Thursday (last week) to do a urine test and an MA brought over to me and a urine cup. So I gave them a sample, after I complained about the Cipro not working and still having a UTI. Now its Tuesday the <sup>24<sup>th</sup></sup> and still havent heard anything about my urine test and im in excruciating pain, passing razor blades, and passing blood. I told the morning med cart nurse my problem and she wrote down my issue and never got back to me or the c/o. So I then told the night time med cart nurse (Tuesday) the same issue and she said she will look at my urine. I said so you want do anything for me im in severe pain. She said she cant give me anything. I want the right antibiotic. So I went in my cell and said to her that its her job to take care of us (inmates). She clearly stated "No Its NOT" was really. My surgeon want do my surgery while here because he said PrimeCare is not qualified enough to take care of me post op surgery. Now I see hes right.

FOR AMINISTRATIVE USE ONLY

Grievance Response: When you were released on 12/26/17 you signed that you were to follow up with your doctor. You did not follow up. You did see Urology on 4/9/18 NO issues - 5/18/18 you did see Jesse Kersch PT NO issues. The Nurses did see you for a sick call antibiotics ordered. You did see Jesse Kersch PA On 5/30/18 and another Antibiotic was ordered which you are still receiving. You are also receiving Antibiotics at this time as well as pain medication. PrimeCare is well qualified to provide your medical care. For Followed up at my urologist 1/3/18 (Trying to cover everything up) Not answering grieving issues

Grievance Answered By: Mitig Mont RBSN HSA Date 6/1/18

Grievance # 0870-18

Date Posted 6/15/18

Inmate Name David Roth BCP# 3014-5547 Cell M208  
Date 6/9/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

I have had a UTI and extreme discomfort for 3 weeks now and have not gotten any results from any of the medications. (All should be documented from sick calls I've been putting in) It all started right before I got my catheter changed. Then I was put on Suprax and it didn't work. So then put in numerous amounts of sick calls until finally I saw Jesse. He then put on Levofloxacin. That wasn't the right med, so Jesse said to me that the culture showed a pretty bad bacteria growth that Suprax was showed to maybe take it away and might not work (exact words) Also must go on 2 antibiotics to fight it. He put me on a med I never heard of and it's been causing me stomach pain, diarrhea, nausea, and always tired. Plus I've been urinating blood on and off. I've been on the 2 antibiotics for 3-5 days or so and no results. It's getting worse and my kidneys are starting to hurt. I told the night med cart nurse that my kidneys hurt and in in extreme pain and she said exact words "I'm sorry to hear that" Wow so good that was. What do I need to do to get help here. I'm not feeling good for 3 weeks and go no proper care yet.

FOR ADMINISTRATIVE USE ONLY

Grievance Response: you did see Dr. Wlonszewski on 6/13/18, he did order you Ultram for pain, Zofran for your upset stomach and for Nephrology consult.  
If you continue to have any concerns please a sick call.

BUS TREATMENT  
JUN 11 11:26

Grievance Answered By: Melissa Mory RN RSN HSA

Date 6/13/18

Grievance # 0922-18

Date Posted 6/15/18

Medical  
MJ

BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

Inmate Name David Roth BCP# 2014-5597 Cell M208  
Date 6/16/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

I have had a bacteria infection of UTI for 3 weeks now and nothing gets done when see the providers. I just seen Dr. Wachetki 6/13/18 and he didn't even test my urine to check if its going away. All he wanted to give me is zofran and send me on my way. I had to mention about giving me something for pain or he would of never. He then mentions sending me to my urologist. That will take a few weeks by then it will be worse. I dont know how much more I can take before I must contact someone. Im being treated unfair and unjust. Im in constant discomfort and pain, passing blood, stomach hurts, strong pains in penis like its on fire. I wrote ever 5 sick calls and never get any answers. The last time I went to my urologist Dr. Wachetki called him first and told him to not give me anything for pain. Wow thats not right. If my specialist sees it necessary to perscribe something its his right to. Now I dont want to go to him because they view me differently now. Thanks

FOR AMINISTRATIVE USE ONLY

Grievance Response:

You are being followed for your UTI and you have refused your urology appt. Providers did see you on 6/13/18, 6/19/18, 6/25/18 and 7/4/18. You completed your antibiotics and a urine screen has been ordered. FOR

Grievance Answered By: Muthi & Morthy RN BSW H&A Date 7/4/18

Grievance # 0948-18

Date Posted 7/4/18

Medical  
AU

Appeal  
Grievance # 0922-18

Inmate Name David Roth

BCP# 2014-5597

Cell M208

Date 6/18/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

**Statement:** Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

Grievance I have had the UTI / bacteria infection for over 3 weeks now. It all started at the end of May when I got my catheter changed by PA Jesse. He then put me on Cipro. That didn't work so after 1 week put me on levoguin. That didn't work and after a week did a urine culture and put me back on cipro and another antibiotic at the same time. Now after a week its not working. I must of told nurses and filled out sick calls over half a dozen times all should be documented. Wednesday 6/13 I seen Dr. Blachetski and he does nothing to see if its getting worse or better he just gives me Zofran and 1 Ultram at night to help sleep for 3 days and sends me on my way. Also says he needs to schedule to see my urologist, which could take a week or 2. I don't have that amount of time. Im urinating out blood and screaming in pain while urinating. My penis always hurts and feels on fire. I always feel sick no energy. I keep telling nurses and they don't seem to do anything. All they say is "Sorry to hear that". What must I do to get the proper treatment here. I put in grievances and grieved 2 nurses and my answers had nothing to do with those I grieved. Pointless grievances. They seem to not care. they say if having more problems to fill out a sick call. Well I have been and I see no one. why. Also relates to grievance # 0920-18

**Grievance Response:**

I have reviewed this with the HSA. You do have an appointment w/ urology pending. After reviewing your care history with Medical, you are receiving adequate treatment for your condition. Medical is doing everything reasonable to manage your infection and your complaints of pain.

Grievance Answered By: DW S. Smith

Date 6/20/18

Grievance # 0923-18

Date Posted

Inmate Name David Roth BCP# 2014-5597 Cell M208  
 Date 6/20/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

**Administration Use Only**

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

**Statement:** Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

Mitzi put that when I got out 12/26/17 I never followed up with urology. That is a lie. I did follow up 1/3/18 with my urologist. So she don't know her facts and also what does that have to do with what I was grieving. Also when I went to my urologist from here on 4/9/18 Dr. Wachetkin called my urologist before hand and made it clear to not give me anything for pain. You definitely can not do that, if he felt necessary to give me something he was my specialist which makes him allowed to give whatever deems necessary. Its like going to a dr. for a cold and saying dont give me cold meds. So now I will not go see my urologist because now they think Im a pain pill addict. Never was. So now if I really need something they wont give it to me. Thanks Dr. Then when I went to Jesse (PA) on 5/18/18 he got my catheter changed I clearly told him I have a UTI and to put me on Cipro. That's when my UTI started and I still have it and its now 6/20/18 I've been on 3 antibiotics and still aint gone. I must of filled out at least 7-8 sick calls complaining about my pain and discomfort. (All documented)

**FOR ADMINISTRATIVE USE ONLY**

**Grievance Response:** Mr. Roth. As I said in your last grievance appeal you are scheduled to see urology due to the current medical issue you are experiencing. Doctors can communicate with each other about patients. They are treating together. There are no rules that prohibit one doctor from making recommendations or communicating about a patient they are treating. It is called Continuity of Care. You should be glad there is communication between your providers as it improves the quality of your medical care.

Grievance Answered By: DW S. Smith SSR Date 6/21/18

Grievance # 0870-18

Date Posted \_\_\_\_\_



BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

Inmate Name David Roth BCP# 2014-5597 Cell M208  
Date 6/20/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

Continuance of Appeal for # 0870-18  
entireance I was only seen for my sick calls maybe 2x. On 5/29/18 after telling Nurses and  
filling numerous sick calls and I told the night med cart nurse (nurse who had purple hair)  
about my infection and (was not working). I told her im in excruciating pain and urinating  
blood, and that "you" (nursing her) wont do nothing. She goes im not giving you anything. I  
dont want anything but the right antibiotic. So I went in my cell and said to her its her job to  
take care of my health. She clearly stated word for word "No Its Not" She has the worst  
attitude I have ever seen from a nurse. Then 6/9 I told the night med cart nurse that  
the antibiotics arent working and it might be going to my kidneys. She word for word stated  
"Sorry to hear that" - I do believe that these nurses /all PrimeCare see us as inmates  
and not what they are suppose to look at us as "Human Beings" So they dont have to care.  
They all have the worst attitudes and it dont matter what you tell them or even if you fill out  
a sick call. They dont have to answer you or do anything. Cuz they know we cant do nothing  
about it. Until Someone dies (Not me) I now will stand up for my rights as a human/citizen  
Ive been screwed around to much

FOR AMINISTRATIVE USE ONLY

Grievance Response:

Mr. Rowe discussed your la (case record)  
Medical on numerous occasions and the the  
are providing appropriate care with adequate  
oversight by physicians, mid-level providers and  
Nurses. Just because you don't see a PA/CRNP/Dr  
every time does not mean they have not  
reviewed a sick call and made adjustments.  
Finally, Appointments w/ outside providers take time to  
be scheduled as they do not have 24hr/daily  
openings. The quality of your medical care.

Grievance Answered By:

TDW S. Smith

Date

6/21/18

Grievance # 0870-18

Date Posted



BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

Inmate Name David Roth BCP# 2014-5597 Cell M208  
Date 7/6/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

My grievances are never answered pertaining to grievable issues. I have had a UTI since before 5/18/18 when I seen PA Jesse to get catheter changed. I am still having all symptoms of the UTI that I had before my catheter. None of the meds are working. But when put sick call in they are never answered and if they are its 2 wks later. I seen the new PA Pam of 7/4/18 for my UTI and the constant pain and discomfort, urinating blood, stomach aches. Her only answers to my problems after telling her i've been fighting it for 5 weeks now was, that they are waiting for a call back from my urologist and that she cant give me nothing for pain. So I must deal with this constant discomfort. I wanna know the reason they cant perscribe a med for pain. They know im not lying about the pain the urine cultures prove I have infection. While in Mccf the Dr. Sustito gave me Oxycodone for my pain because she knows that UTI's are very painful along with having a super public catheter inside me at all times hurts to. ~~So before I was done seeing PA Pam I had to ask her~~ → next page

FOR AMINISTRATIVE USE ONLY

Grievance Response: 7/10/18 Received + Forwarded to DW Smith for response. JLDingley  
Mr Roth- I Spoke to HSA Mantz + PA Kirche about these issues as they are directly overseeing your care. The last two urine cultures you had 7/5/18 + 7/11/18 both came back Negative. Your UTI has been treated + you are now clear. When you saw Dr. Wolzestki on 6/13/18 he did order you meds for discom-fort (Zofran + Ultram) in addition to your antibiotic. You also recieve Tylenol 2x  
↓ That wasn't working

Grievance Answered By: DW S. Smith SSR Date 7/13/18

get results to test (only had 4 test) because Im still in tons of pain and discomfort why? (DR) App 0948-18  
Grievance #

Date Posted 7/13/18

BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

Appeal # 0948-18

Page 2

Inmate Name David Roth BCP# 2014-5597 Cell M208  
Date 7/6/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

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Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

if they could do another culture. She clearly stated yes. The next day they call me to give a urine for a dipstick test. That not what shows my bacteria and wasn't what was told she would give me so I said no and put a sick call in. Then on 7/6/18 in the morning med line the nurse told me that im not getting my acid reflux med that I need because PA Pam said I gave her attitude. First I clearly only raised my voice so she could here me because it was loud in there. Also I feel that after over 5 wks of dealing with 4 different antibiotics and constant pain and no sleep could result in being upset, dont you? Then being told there is nothing she could do. (O yea because they are all about numbers and for profit) (not the care of patients) I canceled my appointment for my surgeon because he was only for my surgery he is not my designated urologist, Dr. Steven Sterious is so I told them to schedule with him. PrimeCare Staff is very rude and seems to not care for the well being of their patients, only about seeing as many patients as possible per day to meet certain number criteria. (Reason I know that is because was told that by psychologist Sam in MCCF so its not lie)

FOR AMINISTRATIVE USE ONLY

Grievance Response:

Per day I as needed for pain. The doctor indicates there is no need for narcotics at this time. Let me be clear about your Urology appointment; Dr. Sterious REFUSES to see you. We cannot force him to accept an appointment with you. We made an appointment for you with Dr. Simhanz and you refused/didn't go on 6/25/18. Again, we cannot force

Due to no need to since cant get surgery, he is only my surgeon.

Grievance Answered By: DW. S. Smith Date 7/13/18

- For 2 reasons  
1- For what happened outside of here  
2- From PrimeCare Dr. Wachetyski  
Calling telling them to not give pain meds. (OK)

Grievance #

APP 0948-18

Date Posted 7/13/18

Original: Treatment File

Canary: Return to inmate with response

BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

Appeal  
09-22-18

page 3

Inmate Name David Roth BCP# 2014-5597 Cell M208  
Date 7/6/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

Lastly I have an answer to when you answered my grievance 09-22-18 by saying that I am receiving adequate treatment for my medical condition. Well actually I am not because any normal human being that walks into hospital with a UTI for over 3-4 wks is at high risk for kidney infection and are monitored for 24 hrs to make sure it doesn't happen. Why not here? They seem to think that UTI's are not serious enough. How about someone like me has had one every month I've been here. They don't even check my blood if there is something wrong. Not proper medical treatment actually. Also if I was receiving proper medical care then I wouldn't have to get another surgery again because PrimeCare nurses screwed up my surgery sight in MCCF resulting in having to let my direct bladder part to close. That's definitely not proper care. That is what you call Medical Malpractice - legal term - operating below the standard of practice - putting profit before well being of their patients.

Please don't let them give medical profession a bad name. They are doing a term used as BAD MEDICINE. Just because I'm in jail I don't mean I don't have rights and can't get legal representation.  
Grievance Response:

FOR ADMINISTRATIVE USE ONLY

Per above, I am unable to pain  
(See pg 4.)

Grievance Answered By: DW S. Smith JDR Date 7/13/18

Grievance # App 0948-18 Date Posted 7/13/18

BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

Inmate Name David Roth BCP# 2014-5597 Cell M208  
Date 7/6/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

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Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

lastly I am also suppose to be on seizure meds due to having 3 seizures after my brain surgery. I was on depakote and dilantin for them. While on streets I was placed on Neurontin 800mg 3x a day for my seizures. (My urologist/surgeon Dr. Simhan requested me to be on that also) While here prior to this time, before 12/26/17 I was on a seizure med while here. Now when I came back not even 2 months later PrimeCare didn't give me my seizure meds. Also took me off bottom tier only DoJ. I have had a recently small grandma seizure while in MCF, so it hasn't been too long since my last one. No tests were done to see if I still needed meds. No EEG (I think thats what its called) was scheduled, were your brain waves are tested. Why do they just take you off something without telling you? More scenarios showing improper care.

FOR AMINISTRATIVE USE ONLY

Grievance Response: Outside providers to see you. We can only make appointments with those who will. Jesse put you on Dilantin based on your recent reported history, despite not seeing a neurologist for 4+ years. Finally you have no reported history of acid reflux nor were you on meds for it per medical. <sup>has nothing stated about that in grievance</sup> A sounds like you have gotten some symptom relief + resolution since you wrote this appeal. You are receiving adequate medical care.

Grievance Answered By: DW S. Smith SLD Date 7/13/18

Grievance # 0948-18

Date Posted 7/13/18

BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

Inmate Name David Roth BCP# 2017-5597 Cell M208  
Date 7/7/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

Issue concerning my seizure meds. I am suppose to be on seizure meds ever since my brain surgery. I had 3 grandma seizures after my brain surgery in 08'. I was on Depakote and Dilantin after surgery. Then went on seen a neurologist and she put me on Neurontin/gabapentin for my seizures while I was in MCCF and on Neurontin, it became non-formulary so I was weaned off it and put on another seizure med. Then when came to BCP 6/17' I was kept on my seizure meds. I left BCP 12/26/17 and came back 2/18' and was never given my seizure meds. I was never asked if needed them or when last seizure was, was just stopped. Why? (When I went to my urologist/surgeon on 4/9/18 from BCP he did request me be on Neurontin 300mg but PA Jesse wouldn't acknowledge his request) I was then randomly taken off bottom tier DOJ because they needed it for detox patient. I have recently had a grandma seizure while at MCCF last year (2017) No tests were done to see if need my seizure meds (No EEG or blood work) More improper care.

FOR ADMINISTRATIVE USE ONLY

Grievance Response: (7/11/18)  
You were seen by PA Kirsch and he reviewed with you your Seizure medication and Seizure disorder. PA Kirsch asked you when the last time you had seen your Neurologist in which you stated 4-5+ years ago. He asked who your Neurologist was and you could not give him the doctor (neurologist) you follow up with. You stated your Urologist was prescribing your Seizure medications. You requested you would like to start taking Dilantin and it was ordered for you. 7/13/19 you are complaining about side effects from the Dilantin, and again will be followed by Jesse Kirsch PA. For

Grievance Answered By: Tracy L. Morris RNBSN HSA Date 7/19/2018

Grievance # 10410-18 Date Posted 7/23/18



**DOJ Orders****David R Roth**  
**#2018-0724**JMS ID:  
DOB:  
Age:  
Agency:2014-5597  
02/11/1987  
31  
CountyLocation:  
Ethnicity:  
Interviewer:M : 101  
-  
Kirsch, PA-C, Jesse T (05/23/2018 09:36)

Start Date:		05/23/2018 0936
Until Cleared By:	<input checked="" type="checkbox"/> Doctor/Physican Assistant	
Exercise	<input checked="" type="radio"/> Exercise per Institution Policy	
Low Bunk	<input checked="" type="radio"/> Initiate	
Low Tier	<input checked="" type="radio"/> Discontinue	
Other - Please specify	<input checked="" type="radio"/> Initiate	Continue M Unit housing with accommodation
Date DOJ Initiated		05/23/2018
Time DOJ Initiated	0936	

BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

page 1

Inmate Name David Roth BCP# 2014-5597 Cell M208

Date 7/13/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form
- ☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

If my urine culture came back on 7/11/18 with no UTI or bladder infection I would like to know then why I am still having symptoms of a UTI or bladder infection (pain in penis during and after urinating, and blood in urine). Everytime I put a sick call in for the problem with pain through penis and blood in urine, it always comes back as triggered and then a date. When really its a lie, I never do get questioned about it by a nurse or a provider so when was I triggered. Also why should I have to deal with all this pain and suffering not just physically but mentally also due to PrimeCare's mistake of growing up my surgery? When was here prior to 12/26/17 PrimeCare providers said it necessary to give me Tylenol 3's for pain, now I have some thing with me medically and they dont see it necessary to give them, they just contradicted themselves. I am going through this pain and discomfort everyday and put over 12 sick calls and the pain now is like a normal thing I deal with every day so I'm getting use to it. I also must change my pants and clean my underwear daily to clean the puss and urine out of them. Reason why I must not a dressing on after shower: All this pain and suffering, now

FOR AMINISTRATIVE USE ONLY

Grievance Response:

Medical issues pertaining to the UTI complaint have previously been grooved and answered through and including the appeal process. There is no further recourse. Your concerns regarding your mental health will be addressed as follows. I will notify the mental Health Department Supervisor of your concerns and send her a copy of this grievance. She will take steps to review and follow up with you as she deems appropriate.

Grievance Answered By: Cpt. Castro Date 7/16/18

cc: S. Swarthly  
Dw Smith

Grievance # 1082-18

Date Posted 7/11/18

Original: Treatment File

Canary: Return to inmate with response

Cpt Castro  
[Signature]  
FORM# REC120 (REV 2/10)

me



Inmate Name David Roth BCP# 2014-5597 Cell M208

Date 7/13/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

**Statement:** Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

you see why I must of made the choice to remove my catheter because of the pain and suffering I deal with every day out weighs the Medical Care I am provided with while here from PrimeCare. Thats said that I had to do that to get proper medical care. Arent we all human beings? I am now dealt with mood swings, anger, depression, anxiety, PTSD, feeling worthless (No harm to self or anyone else, not thinking about it either), always tired, or cant sleep from all this. Also went through a lot of medication (antibiotics) for all this and left me with a lot of bad side effects. Now im told my surgeon wont do the surgery to fix PrimeCares mistake because he doesnt trust PrimeCares care after surgery. So now I must keep dealing with this, to me, improper medical care. What is you definition of proper medical care or what do you consider proper medical care. I guarantee if I would ask my surgeon if he believes in getting proper medical care he would disagree why must I go through 4 different antibiotics 5x and suffering a UTI for a month straight? Never once going to an ER to see trained specialist to diagnose why my body is rejecting antibiotics. There again was made to FOR AMINISTRATIVE USE ONLY deal with pain and discomfort with nothing I could do.

Grievance Response: See page 1

COUS TREATMENT  
JUL 16 AM 11:20

Grievance Answered By: Cpt. Castro Date 7/16/18

Grievance # 1082-15

Date Posted 7/11/18

Cpt. Castro  
*[Signature]*

BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

Copy of original  
sent in 7/18/18

Inmate Name David Roth BCP# 2014-5597 Cell M209  
Date 7/15/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

Since coming to BCP I have had over a dozen UTI's / bladder infections. Most of which I get put on the antibiotic Cipro. Some of them never even got tested to see if it was a UTI. For example: When I seen PA Jesse on 5/18 him to fold him that I was having symptoms of a UTI and he said OK you want to be put on Cipro. He didn't even test my urine or acknowledge the fact that it might not be. He then puts in the computer that there was no issues when he seen me. Issue im mostly grieving is the fact that over use of antibiotics, without even trying tests first. It was just in the paper from a Dr who said "people who get unnecessarily antibiotics are at risk of severe side effects. Even with the dose of the medicine. Inappropriate use of these life saving drugs also puts others at risk because overuse accelerates the emergence of resistant bacteria or super bugs that cant be stopped with drugs." (The Washington Post July 17th) Case in point shows why I was having severe side effects and why Cipro and some antibiotics dont work for me anymore because they were overly used. I am still having symptoms of a UTI and haveat seen anyone regarding my symptoms why? Improper Medical Care

Grievance Response:

Never got grievance returned

with answer

left BCP 7/31/18

Grievance Answered By: \_\_\_\_\_ Date \_\_\_\_\_

Grievance # \_\_\_\_\_

Date Posted \_\_\_\_\_

PERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

(Copy of original sent in 7/18)

Inmate Name David Roth BCP# 2014-5597 Cell M308  
Date 7/17/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

Since I've had my super pubic catheter placed and while being in BCP. I have not been scheduled to get a daily dressing put over entry part of the catheter to my body. Every other day when I shower I have to C/o call medical to have me go get a dressing put on over my catheter. Reason for the dressing is because urine and puss come out around the catheter were it goes into my body. It looks gross. It also gets all over my under wear and pants if I don't have a dressing and or my dressing don't get changed could possibly cause infection. Most recently its been a big problem going to get a dressing and I don't know why. For the past 3 days, (FRI, SAT, and SUN) the 2nd shift C/o would call and tell them I want a dressing and the medical staff on the other end would answer OK we will call when were ready. Then they never call back why is their job? I have put a sick call in so they can schedule them and never heard anything back. Maybe that part of the reason for my bacterial infection. Note: I never once got asked to culture the puss coming from area around entry to body.

\* Still having symptoms of UTI as FOR AMINISTRATIVE USE ONLY of JULY 17th still havent seen no one

Grievance Response:

Never got grievance returned  
with answer

left BCP 7/31/18

Grievance Answered By: \_\_\_\_\_ Date \_\_\_\_\_

Grievance # \_\_\_\_\_

Date Posted \_\_\_\_\_

**BERKS COUNTY JAIL SYSTEM**  
**INMATE GRIEVANCE FORM**

Inmate Name David Roth BCP# 2014-5597 Cell M208

Date 7/32/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

**Administration Use Only**

- ☐ Does not fit criteria for an emergency/sensitive grievance      ☐ Form is incomplete      ☐ Resubmit on proper form
- ☐ Lacks details      ☐ Must be completed in English

**Statement:** Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

This grievance is against RN Sam F. medical she is really disrespectful. Today Sunday July 22nd (2nd shift) she told C/o Shollenburger that she does not like me because I said she was an impatient B-word. Those words never came out of my mouth ever. She doesn't like me because of something I wrote her up for before when she said that our (meaning inmates) health and well being is not her job. She is the only nurse that won't let me come to medical to get a dressing on my catheter <sup>sight</sup> ~~put~~. She would rather have the puss and urine get all over my boxers. She also selectively crushes inmates meds. I watched her and I know for a fact she doesn't crush everyone's meds that are supposed to be crushed. Example: Inmate River M109 gets meds that get crushed. She does not crush any of his meds and every other nurse does. Why? Is she special. If you want to be a nurse and do your job properly then obey the rules. I don't do nothing wrong to her there is no reason for her to be disrespectful to me and lie to staff about stuff I never said. If I supposedly said it why didn't she put it on evidence then

POINT BROKEN

**FOR ADMINISTRATIVE USE ONLY**

**Grievance Response:**

Never got grievance returned

with answer

left BCP 7/31/18

Grievance Answered By: \_\_\_\_\_ Date \_\_\_\_\_

Grievance # \_\_\_\_\_

Date Posted \_\_\_\_\_

PERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

Copy of written  
grievance on 7/23

Inmate Name David Roth BCP# 2014-5597 Cell M208

Date 7/23/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form
- ☐ Lacks details ☐ Must be completed in English

**Statement:** Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

My issue I am grieving is about the sick call process. It is horrible. I never get them back for at least 2 weeks. Everytime I get them back it says triaged as them which is a lie because I never do get seen for the sick calls. Example: Filled out sick call on 7/11 for still having UTI symptoms after my urine culture came back and I seen no one or even no nurse asked me how I was doing. Also on 7/11 I put in sick call for me seizure meds giving me bad side effects and to get them changed to tegretol-what I was on prior. I never got seen or questioned. I put sick call in on 7/13 about getting a standing order for my dressings to be put on after my showers. I never seen anyone or get questioned. 7/20 I put sick call in for having UTI symptoms again. Never seen someone or get questioned. Thats just some of them; there is a lot more not answered or seen for why even have them sick calls if they aren't answered correctly or honestly? I feel I am without proper medical treatment everyday. What would happen if it was something serious and your sick calls dont get answered? When I seen PA Jesse on the 2nd I told him about my symptoms and he said well I have this catheter coming out of you. Wow really? (6/4, 6/11, 6/16, 7/1, 7/7 sick call no answer)

FOR AMINISTRATIVE USE ONLY

Grievance Response:

Never got grievance returned  
with answer

left BCP 7/31/18

Grievance Answered By: \_\_\_\_\_ Date \_\_\_\_\_

Grievance # \_\_\_\_\_

Date Posted \_\_\_\_\_

Copy of original

Appeal # 1046-18

Inmate Name David Roth BCP# 2014-5597 Cell M302

Date 7/25/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

Appeal # 1046-18  
Still no answer for my sick call I put in around 7/18 complaining of side effects caused by my seizure med Dilantin. I keep telling every night med cart nurse about side effects and they just say OK I put sick call in to get it switched to Tegretol. I was on that before prior to being here in BCP. Also when was last at my urologist he requested me be put on Neurontin 300mg. When I seen Dr. Jesse on 7/11 and I said something to him about the neurontin he said yes it was approved but I'll put you on Dilantin. Why? When neurontin is also for my neuropathy / nerve damage also close to my bladder. I see people are on neurontin here so you can't tell me that don't give to people. Also it should be documented that I had a seizure while in MICU in 2017. Since whenever someone has a seizure it is reported to the DMV and you lose your license for 6 months. So I do have a fairly recent seizure history. Also they took me off bottom tier DOJ when it is meant for people with seizures.

**FOR ADMINISTRATIVE USE ONLY**

Grievance Response:

Never got answer to grievance.  
appeal

left BCP 7/31/18

Grievance Answered By: \_\_\_\_\_ Date \_\_\_\_\_

Grievance # \_\_\_\_\_

Date Posted \_\_\_\_\_

Copy of Original

Inmate Name David Roth BCP# 2014-5597 Cell M208  
Date 7/25/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

**Administration Use Only**

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

**Statement:** Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

My grievance is on RN Shannon of Medical (Pomeroy) I was talking to inmate Jesus Chazarez last week and he told me some very unprofessional things about her. 1st incident he told me happened on 3rd shift. He was called over to medical and while over there she performed daily ~~physical~~ on him. Also while over there Jesus slipped a piece of paper with his mother's information on it, and to call his mom so when Jesus got out of Jail they can meet up. He also stated that RN Shannon called his mom and also puts money in his books. Jesus also showed me a bunch of variety colored gel pens she gave him. I don't believe he was lying because the way he said it and why would you lie about that. IF a nurse is here to give things (physically) to inmates and not care about their health and well being, what else unprofessional actions will they do. Also goes to show you who is hired to do this job. I am going off of what was said to me and also was shown some proof of the incident. (the gel pens)

**FOR AMINISTRATIVE USE ONLY**

**Grievance Response:**

Never got answer to grievance  
1ef BCP 7/31/18

(told Lt Shear about situation)

Grievance Answered By: \_\_\_\_\_ Date \_\_\_\_\_

Grievance # \_\_\_\_\_ Date Posted \_\_\_\_\_



# BERKS COUNTY JAIL SYSTEM INMATE COMMUNICATION FORM

Inmate Name: David Roth BCJ #: 2014-5597 Unit/Cell #: M208 Date: 7/6/18

TO: (Select only one of the following; selecting more than ONE box will result in your communication being filed unanswered.)

- |  |  |  |   |   |
|--|--|--|---|---|
| <input type="checkbox"/> Booking/Mail/Property | <input type="checkbox"/> Custody       | <input type="checkbox"/> Inmate Accounts   | <input checked="" type="checkbox"/> Medical | <input type="checkbox"/> Warden                         |
| <input type="checkbox"/> Chapel                | <input type="checkbox"/> Deputy Warden | <input type="checkbox"/> Inmate Telephones | <input type="checkbox"/> SOG Commander      | <input checked="" type="checkbox"/> Other <u>Mental</u> |
| <input type="checkbox"/> Commissary            | <input type="checkbox"/> Education     | <input type="checkbox"/> Kitchen           | <input type="checkbox"/> Treatment          | <u>Health</u>   |

Write legibly, supply all relevant details. Forms which are unclear or contain demeaning language, threats or profanity will not be addressed. **ONLY ONE TOPIC PER COMMUNICATION.**

I would like to talk to a psychologist please. I have stressed, always in bad mood, angry, depressed, lack of energy, always wanting to sleep due to my medical problems and having excruciating pain and discomfort all the time. Please help Thank you  
(Not in state of self harm or to others)

Note: Writing in "response" section will result in form being unanswered and filed.

Inmate Signature: David Roth

RESPONSE: Deeched safe BERN

you are scheduled to be seen by JIM MINE to follow up and your pain issues can not be addressed by this department

Date: 7/7/18 Staff Member (Print): SSW/MR and (Sign): [Signature]

CC: \_\_\_\_\_

# BERKS COUNTY JAIL SYSTEM INMATE COMMUNICATION FORM

not went to Warden  
it went to DW Smith,  
why?

Inmate Name: David RothBCJ #: 2011 5597  
Unit/Cell #: M202Date: 7/9/18TO: (Select only one of the following; selecting more than ONE box will result in your communication being filed unanswered.)

- |  |  |  |  |  |
|--|--|--|--|--|
| <input type="checkbox"/> Booking/Mail/Property | <input type="checkbox"/> Custody       | <input type="checkbox"/> Inmate Accounts   | <input type="checkbox"/> Medical       | <input checked="" type="checkbox"/> Warden |
| <input type="checkbox"/> Chapel                | <input type="checkbox"/> Deputy Warden | <input type="checkbox"/> Inmate Telephones | <input type="checkbox"/> SOG Commander | <input type="checkbox"/> Other _____       |
| <input type="checkbox"/> Commissary            | <input type="checkbox"/> Education     | <input type="checkbox"/> Kitchen           | <input type="checkbox"/> Treatment     |  |

Write legibly, supply all relevant details. Forms which are unclear or contain demeaning language, threats or profanity will not be addressed. **ONLY ONE TOPIC PER COMMUNICATION.**

I am writing you this because I am experiencing a lot of difficulties with my health and the care and well-being of my health from PrisonCare. I don't know what else to do. I have exhausted my remedies. My grievances never get answered based upon my grievance issues. I've been dealing with this UTI or bacterial infection since around 5/18/18 when I saw PA Jesse to get my culture changed and clearly told him I was having symptoms of a UTI. He then put me on Cipro without doing a urine culture. It's now been since then, and 4 different antibiotics, 3 urine cultures, 1 urine dip stick, 5x being on antibiotics in that time frame (one time on 2 at once), putting in over a dozen sick calls, and getting treated unfair and disrespectful by PrisonCare staff. (All stated in my grievance.) I know that every time I see a provider in sequence, in and out, that there is no time to even discuss problems, and it do they seem to not care. If I would of went to hospital with a UTI for over 3 weeks they would of kept me over night till it passed just to know it didn't get to my kidneys. It should of never got this far. I'm still passing blood, my penis is always on fire, I'm constantly standing over toilet screaming in pain, and my stomach always hurts. For over 5wks. But that's ok. And you can see I'm not lying by the cultures they do. (Now you see why I pulled my call card out before, because this is no fun it hurts bad) I need help. What must I do. It's getting to me mentally now. I have mood swings, depressed, always angry, always want to sleep no energy. What more do I got to go through. This is not right we are all human. Please help me. My last resort is to get a lawyer that's my only other option I that went to though

Note: Writing in "response" section will result in form being unanswered and filed.

Inmate Signature: David Roth

RESPONSE:

You wrote a grievance about this and your concerns will be addressed through that process. (See grievance appeal 0948-18)

Date 7/11/18 Staff Member (Print) S. Smith and (Sign) [Signature]

CC: \_\_\_\_\_

# **BERKS COUNTY JAIL SYSTEM** **INMATE COMMUNICATION FORM**

Inmate Name: David Roth BCI #: 2014-5597 Unit/Cell #: M208 Date: 7/24/18

**TO:** (Select only one of the following; selecting more than ONE box will result in your communication being filed unanswered.)

- |  |  |  |   |                                      |
|--|--|--|---|--------------------------------------|
| <input type="checkbox"/> Booking/Mail/Property | <input type="checkbox"/> Custody       | <input type="checkbox"/> Inmate Accounts   | <input checked="" type="checkbox"/> Medical | <input type="checkbox"/> Warden      |
| <input type="checkbox"/> Chapel                | <input type="checkbox"/> Deputy Warden | <input type="checkbox"/> Inmate Telephones | <input type="checkbox"/> SOG Commander      | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Commissary            | <input type="checkbox"/> Education     | <input type="checkbox"/> Kitchen           | <input type="checkbox"/> Treatment          |                                      |

Write legibly, supply all relevant details. Forms which are unclear or contain demeaning language, threats or profanity will not be addressed. **ONLY ONE TOPIC PER COMMUNICATION.**

Want to know if someone scheduled an appointment with my urologist/surgeon Dr. Sankar  
I know I asked someone in medical to but never heard anything back. This was after  
Dr. Sankar wouldnt see me. I am still having UFI symptoms and can not get answers  
here so I must see a specialist as to why I am experiencing them. So if someone  
would please schedule it I would appreciate it. Thank you.

Note: Writing in "response" section will result in form being unanswered and filed.

Inmate Signature: 

**RESPONSE:**

Thaged MURPHY 7/25/18 You are in the  
process of being scheduled soon

Date \_\_\_\_\_ Staff Member (Print) \_\_\_\_\_ and (Sign) \_\_\_\_\_

CC: \_\_\_\_\_

## EXHIBIT 3

contents: Letter to PrimeCare

11/14/17

To whom is reading this, here are events or things that go on in Prison with PrimeCare and inmates that are not right and can, or already did, get serious -

1) I was in Montgomery County Correctional Facility and Berks County Prison who both have PrimeCare Medical and Mental Health. When meds are passed out to inmate/patients from the med cart, nurses don't wear gloves (latex). Some use hand sanitizer, but its a proven fact that hand sanitizer don't work unless hands are washed with soap and water first. Nurses do touch a lot of dirty things they then touch our meds. Not Good

2) While at Montgomery County Correctional Facility (MCCF) was on a medical unit, the nurses who do the med cart take all the over the counter medication that are in bottles, out of the bottles and put the pills in paper cups so they are easy to grab when needed. But when PrimeCare does inspections the meds get put back in the bottles and the nurses state that they are suppose to stay in the bottles (so they don't obey that simple rule) BCP does the same thing. (Tylenol, motrin, benedryl, stool softener, antacids)

3) A major issue is disrespectful nurses, or PA's, NP's, MD's. It seems to me that because we are in jail, we are viewed as inmates to medical and not patients. I do believe that the nurses are suppose to and required to treat us the same as if we were in a hospital setting (Equal Rights Act) Here are some times that this happened to me. I have numerous reports but here are 2 recent one. Filed at BCP (Along with this letter are copies of the grievances filed about events) Oct 12<sup>th</sup> 2017 - 2<sup>nd</sup> shift night med cart nurse, for M-unit; RN Christine was handing meds out and when I was done getting mine and was back in my cell (101) the C/O Weidner and the nurse played a very disrespectful joke on me. The C/O popped my cell door and yelled to me "what did you say you wanna Kill yourself?" Then RN Christine said, "Yea I heard him say it." Then her

and the C/o laughed thinking it was a joke. (filed grievance on both). That is not something to joke about especially since I just lost my mother August 2015 and waking up to her dead on the living room couch. Also thats why Im in jail, for trying to kill myself with pills, from losing my mother and for my health. So I dont joke about death. The other event happened 2x by 2 different nurses. (The 1st one by LPN Katie) The newest one happened on Oct. 10<sup>th</sup> 2017 around 8:30pm. I went to medical and was getting my Super-Rubie dressing changed. While that was getting done I was talking to the nurse ( ) doing my dressing about my fractured hand. She was being rude to me, telling me Im thick headed. So I just stopped talking. Then when done I was walking out of medical and RN Morgan was by her med cart listening to my conversation with the nurse changing my dressing. (Note I was behind a curtain in privacy at the time so no one would bother us) RN Morgan then stops me and states "If you dont like it dont come to jail." Like its part of their job to remember were we are at and to not care for our needs as much. Their responsibility is for our health and well being only. Not why we are in jail. They shouldn't even consider us inmates, but patients. (Equal rights falls here to) If they view us as inmates it could take away the care for us. (This is the 2nd time it was said to me - retaliation?)

4) Since coming to Jail with the re-occurring bladder problem and recently before coming to jail I had 2 prostate surgeries by Dr. Steven Stenious at Einstein Hospital Philadelphia PA. Was told I might have a sign of cancer. So I was mentally and phys.cally drained coming into MCCF from Building 50, Norristown State Hospital. I tried taking my own life after hearing about the cancer and after losing my mother (there's more to it than this to). I spent a little over 1 month at building 50 before coming to MCCF. I went right there from the Police Station when I was arrested for trying to kill myself in my ex girlfriend's car. When arrived at MCCF.

I was put on Suicide Watch, which I understood why. Then the next day while in MCCF I tried taking my own life, by suffocation. Was then transferred to an observation cell. So while at MCCF for over 10 months, I saw MH every week, not just a psychiatrist but also a psychologist too. I got bumped 2x from 20mg Prozac to 60mg Prozac. When I was transferred to BCP I was only given 20mg Prozac, why? I mentioned that to MH and they stated they will say something to Dr. but never got it up to 60mg again, why? If both facilities are Prime Care it should of been on record. Also when I came to BCP, in the 5 months I've been here so far I only saw MH 2x. (Jessica) I wrote MH multiple times telling them my situation and still never saw me. They told me I needed to write to treatment. I never had to do that at MCCF. I've noticed Psych only sees people who are on suicide watch here at BCP why? It should show my past on my records. If I requests to see someone pertaining to my issues I should be seen shouldn't I? Feel a bit of neglect. I also have ADD (Attention Deficit Disorder) so why is there no meds for that offered at Jail, especially because you are in a cell all day, it intensifies the disorder. I do believe I am not receiving proper care. While in MCCF, a psychologist Sam, said to me that their job is about numbers. I asked what do you mean. She stated that they get paid by amount of inmates they see in a shift. So it's not the amount of care or concern they have for us. I also have had a TBI (traumatic brain injury) so my moods are so up and down constantly, its so hard to find the right medication for me. I really need the proper help for my MH problems. On top of everything I have PTSD. So being neglected is not safe for me. (talk more about that later in person)

5) Before coming to Jail my urologist was prescribing me Oxycodone 30mg



pills for my pain. (Dr. Steven Sterious). For my seriousness of pain, because he knows of it. Also have been fighting it since 09'. Pain also came from my brain surgery. So my tolerance to pain meds is really high. When I was in Building 50 I was receiving my Oxycodone 30mg pills because the Dr. there called my pharmacy to check records and they matched what I said. When I got to MCCF I told medical about all my medical issues and my medication I was taking. I was put on Tylenol 3's first. Then it took me a couple months to get all the way up to Oxycodone 20mgs. Why? I went to my urologist numerous times at Einstein Montgomery. He wrote me a prescription for Oxycodone 30mgs. PrimeCare never followed my specialists orders why? I wrote a lot of sick calls or told nurses by speaking to them, at MCCF and BCP, that I was in agonizing pain and discomfort, that I couldn't sleep either. All they would do was take a urine sample and put me on antibiotics for the most 10 days. I had so many UTIs that to prevent them from re-occurring I should of been on antibiotics continuously, non stop. Its not your body that get immune to them its the bacteria its fighting, so you just switch antibiotics periodically. So I had to deal with so much pain for no reason, that could of been handled but wasn't properly. Then after a couple visits to my urologist at Einstein Montgomery County, Dr. Sterious set me up with his colleague who did more major surgeries, Dr. Simhan. So I seen him and he scheduled another surgery to hopefully solve all the issues and fix everything so I didn't need to go under the knife again. So I got the surgery and after the surgery I was held at the hospital 5 days and the day I was leaving another urologist and a student trained me on how to specifically catheterize myself at my new site that the surgeon made, there was a certain way to do it or you could screw things up, so I was trained. So when

released from the hospital I am back at MCCF and the 1<sup>st</sup> thing that happened and went wrong was my surgery suture opened back up while sleeping and got infected. Then went to hospital. Another incident was when Dr. Sestito and RN Judy (2<sup>nd</sup> shift charge nurse) both tried catheterizing me after me and my surgeon both said not to. (my surgeon put it on paperwork to not have them try) The 2<sup>nd</sup> time when RN Judy tried was really painful and made me cry. I specifically told her I couldn't get a catheter in and if she could call my surgeon to see what I should do. She stated that she must try 1<sup>st</sup> before she can call. Words can't describe how bad that was. She put it in the wrong hole and just kept pushing harder and harder. When went to see my surgeon after that incident he also tried getting in that same hole but couldn't, it went no were near bladder. So she was trying to make her own hole. (Just imagine that how painful that would be) So my surgeon knows of both occasions when they disobeyed his orders and has it all documented. Now I must go get another surgery. I will save that one until I get out though. I don't trust no one anymore (PrimeCare). - Note - C/o Martinez took me to one of my appointments after that.

6. Right before I left MCCF to go to BCP I was still on the Medical unit until one night after all the PAs, NPs, and MDs left for the weekend C/o Bueler came to my cell and told I was moving to regular population that I was medically cleared. I never saw any Doctor to clear me though. Plus I had 2 tubes coming out of my body, and a leg bag. So I moved to F-unit and put on the top tier (which shouldn't have been since I have seizures) and in a 4 man cell with 1 toilet. While on the unit an inmate in a cell next to me started with me and we were wrestling around and he tries pulling my fully catheter out of my body (ouch). C/o's luckily came running in as it was happening or would of been worse. The c/o then sends me to RHU. Now

while in my cell on the RHU block I (and my celly) kept yelling for the c/o and telling them that I was in serious pain and discomfort coming from my penis, stemming from my catheter being pulled. But it took them too long to get me to medical so I had to do something myself which was to remove the fully catheter myself properly. (Remember I have had catheters in and out of my body since 08' so I know how they come out). Thinking that would help the pain, but it didn't. (Another thing to also mention was the condition of the cells on the RHU block. They were horrendously bad and very dirty and stunk. How could they put someone with an open wound back there?) I then a little later went to medical and got evaluated by a nurse and decided to send me to the hospital. While sitting in medical on the bench waiting to go to ER Captain Reilly comes up to me and looks in my eyes and says to me that he wanted to punch me in the head because of me going to the hospital so frequently was putting his officers in jeopardy. WOW!!! Such a horrible thing to say to someone with PTSD and TBI. That totally scared the shit out of me. That's another reason, just to show you why I was so scared while in MACF to do anything with paperwork. Also the C/o's would never give anyone grievances and when filled out request forms we never got them back. I also got threatened by a couple c/o's there. I'm trying to remember their names but it's hard since I have very bad memory due to my TBI. I will try to get them when released 12/26/17. After that I came to BCP. Before coming to BCP I went myself down from Oxycodone 20mgs to Oxycodone 5/325s because I knew I wouldn't get them here at BCP. Which was true. Even though my primary care physician requested them. When I saw Dr. Wachetski (spelling?) at BCP about my pain and discomfort, he got so rude with me. I told him

I only wanted Tylenol 3's, which he came back saying that I must be addicted to pain meds and that his family just had surgeries and were only taking motrin pain meds for their pain and were fine. Well I do know that everyone's pain is different and handles pain differently. He had no right telling me that or making that assumption. I only asked for 1 dose at night to help me sleep, is that really bad? Then I seen another MD Dr. Cohen here at BCP. He put me on Peridium for 2-3 months every day for bladder spasms and pain. I went to see my urologist Oct 4<sup>th</sup> (Dr. Sterious) and told him that I was on Peridium still and have been taking it for a couple months straight. He said to take me off it and was only suppose to take that med for MAX 3-4 weeks because it could damage liver, plus I already have Hep C. Why didnt a Dr. know that? While at my urologist he suggested Tylenol 3's for pain. So Oct. 5<sup>th</sup> @ around 8:30 PM I saw PA Jesse, right away he says to me "Hep- your happy now you got what you wanted, your Tylenol 3's". Rude? How can they say this stuff to Patients freely? Its really not that serious but to them it is. Also while at MCCF I seen a Dr. every week to check up on me and to see how I was. Now while at BCP that dont happen. When I do see someone from medical its someone different every time, so when do see someone they dont know anything thats been going on recently so I got to repeat everything all over again and their answers are totally different than the last persons. So I told medical plain and simple I will only see 1 Dr. and that is NP Paula, she was my dr. every other time I was in medical and she knows my past, plus she is reasonable and caring. I also had bad encounters with the other Dr's. (All dates, times, who I saw is all documented) (My surgeon has all it documented to and he knows of all 3 times something happened to me)

7. When I arrived at MCCF I was on Neurontin (Gabapentin) 800mg 3x a day for multiple reasons. Mainly for seizures from my TBI, prescribed by my neurologist after my brain surgery. Have neuropathy on right side of body from being paralyzed after TBI, so pain shoots through my leg and arm. Have restless legs due to same reason and hard time sleeping at night without Neurontin. On it for my urinary problems since it all stems from nerve damage from UTI's and TBI. Never had the right to take me off it because I was on it due to serious medical issue and had it before coming to MCCF. So I fought to get it back but was rejected. Resulted in me having sleep problems and still do (11/12/17)

8. While at MCCF, PA Angie (Angela - I always called her Ang) was very rude to me. One time after I said Hello to her, she said to me "who you trying to manipulate today?" That was stated to me out of nowhere and I don't know what for. Was uncalled for. She is in a relationship with a Corporal Baker at MCCF, so to try to get me irritated she would get her significant other (Baker) to punish me or treat me horribly. When my physician, MD Sustita, would go home for the day and PA Ang. was the only one there she would put in my notes in the computer to crush all my meds and float them in liquid before giving them to me. Why? I don't know. I never did anything wrong, or checked my meds, or got seen doing anything of that nature. Another reason why I was scared. Plus a lot of nurses date C/o or Jail staff, so if they wanted to get you then they would just tell them to punish you. Why can medical personnel date C/o's? You should hear the talk that goes on around inmates from the nurses to C/o's. They talk about sex and a lot of non professional things. Just wish someone would see or hear it. We can't do nothing about it. I just feel like they can run all over us and we just gotta take it, do we deserve it?



When I brought the issue up to LPN Tracy (charge nurse 1st shift) and Head of PrimeCare RN Jean at MCCF they told me it was in the computer that I was cheating my meds. But when asked who caught me and who put it in the computer, everyone said it wasn't stated who did. Wow! Retaliation? So being punished for no reason. My celly at Mccf Robert Coulson is my witness he seen it all done to me.

9. The medical units in Both Mccf and BCP are the dirtiest in the whole Jail. No wonder I was getting UTI's and infections a lot. At Mccf I had close to a dozen UTI's and went to the hospital so many times. Also was placed under anesthesia 3x while at Mccf. (one occurrence for PrimeCares mistake) I was always uncomfortable, in pain, felt dirty, had mood swings all day long. Inmates on the medical block at Mccf would throw feces all over cells and urinate on floor. Then lay on bare mattress naked, also went shower. Walk around in cell without nothing on their feet. Then when they would leave that cell, c/o's wouldn't clean the mattress or clean the cell period so the next inmate to go in was made to deal with the dirtiness and smell. The inmates would also throw food all over the cells. It was horrible and nothing was ever done. Medical would put a lot of stress on me every day. Things I had to deal with, no one should of had to go through from a medical department anywhere. We, as inmates, were treated as we weren't even human anymore. While at Mccf I was so scared of what that day was going to bring, so it was a big rollercoaster ride for me. I was so afraid I wasn't ever getting out of there and they were seriously going to hurt me one day. (While there a bunch of c/o's got fired for pushing an inmate down the stairs in medical, also beating an inmate up in his cell, they called it rec chasing) Now I don't trust anyone from Prime Care or in the Medical Department at Mccf or BCP. Now everytime I

have a lot of Pain and discomfort and cant sleep, I must help myself because the pain PrimeCare put me through I don't want to deal with ever again. The events mentioned are not even all the things PrimeCare did to me, but should be documented. Was so scared they would retaliate. It cant be constitutional or humane what they do to 'us' human beings. To me it has to be a form of negligence and malpractice. It should not be tolerated, but a lot of medical staff date c/o's or Jail staff so they can get away with so much.

Someone must stand up for myself and 'Others' or nothing will ever get done.

No one seems to believe what us inmates say and no one talks about the equal rights act. In 08' I was assaulted physically which the person fractured my skull with his fist and then resulted me in having bleeding in the brain and an unbreakable seizure. To stop the seizure I had to be placed in a medical induced coma. I had multiple problems with my health after awake from my 7 days in a coma. I was paralyzed, my whole right side of body, had to undergo intense occupation and physical therapy, also speech therapy afterwards. The person who assaulted me was my own cousin, who was told by my own father to assault me and if needed kill me.

So do I deserve all this punishment? Plus on top of that I just lost my mother who was the only person (family) to help me through every day struggles.

Now im on my own fighting everyday events. My head is so intoxicated with so many negative thoughts and mood swings brought on from those 2 issues.

I also now believe my own dad killed my mother, which resulted in me trying to take my own life 2x since her death, Not only her death but my health problems to were weighing heavily on me. The 2<sup>nd</sup> time it happened is the reason im in Jail now. I took my ex's car and drove in the woods and tried over dosing on medication. Which stemmed into drug charges. Also

why I was taken to Norristown State Hospital the same day I was arrested.



Did coming to jail help matters? No!! it made me mentally and physically worse. Is really a necessary punishment I deserved? Its all a money game. So now im standing up for me and others. My words are suppose to be taken equally as is a police officers or any other persons, but thats not how it works today, WHY?

10. On September 1<sup>st</sup> 2017 on M unit, C/o Koller, gave me a misconduct for having a piece of paper on my light in my cell. When I was on my way to N unit to see medical first I stopped and was speaking to nurse (I forget her name but we call her mamma or mom) and I asked her since I will be house on medical unit if she can ask PA Jesse if he could write me a D.O.T. so I can have my mattress, since I have a Super Pubic Catheter and an open wound. She said yes I will ask. So she comes back and say Jesse said "no". So I was stuck laying on a metal cot with rust all over it and very dirty conditions with an open wound. (for 7 days straight) Its shouldnt be right to be able to take someones mattress who is on a medical block who is disabled. Which it did cause more problem and I did grieve that issue and let medical know it did cause me more pain (grievance filed 11/6)

11. I have been on Social Security Disability since 09'. So I am classified as disabled by ADA. So I do believe I should be seen by someone weekly but they dont here at BCP. I have to get another surgery (the 3<sup>rd</sup> one since being incarcerated and being in the care of Prison Care) but feel I am being poorly treated and unfair. So I am scared to get the 3<sup>rd</sup> surgery while here. The way medical treats me has to fall under the 8<sup>th</sup> Amendment.

- I remember the most major issue like it was yesterday, when RN Judy stated she needed to try to put the straight catheter into my surgery sight into my bladder (after I told her I couldn't get it in, to just call my surgeon please) I remember screaming in agony and pain with tears coming from my eyes.

I was yelling "Please stop", "It hurts so much." with her response "its almost there" "Its getting closer". But its bleed profusely. Its planted in my head now and still hurting me physically, emotionally, psychologically every time I remember it. I was at the Reading Hospital and in the RI (radiology intervention) department waiting to get a new super pubic catheter put in from Dr. Saks. While he is watching me on the Radiology screen to see where the hole went that RN Judy tried putting the catheter into my bladder at, where it went. He stated "It goes no were near your bladder" "We have to make a new hole." Wow!! So I had to suffer for her mistake and deal with it for life now.

12. Another issue that gets me is the sanitation of the cells at both MCCF and BCF in the Medical blocks. Along with also the conditions of the blocks period. They are very unclean, unsanitary, inhumane, and just lack of care to the cells, not just on Medical units but in RHU also. While in MCCF on the medical block if I didn't clean my cell, (which we weren't suppose to but some c/o's would let my celly clean), I am pretty sure I would get an infection or MRSA. When MCCF would get their monthly inspections, they wouldn't come to the medical block everytime and would never inspect the cells either on medical. WHY? Mostly all c/o's and all nurses didn't have any concern or care about the cleanliness of medical block. Every day numerous amounts of inmates would come to medical block under MRSA watch because they were thought to have MRSA. I never seen so many cases before like that, it was bad. You probably don't hear about it because no one wants to do paperwork. When an inmate would leave medical to go to another unit, another inmate would be put into the same cell right after they left and no one would clean the cell or wipe down the mattress, so they would have to sleep on a dirty mattress. Wouldn't even be given shoes to wear. I've seen inmates walking around the block and all the way out to see the dr. with bare feet.

If that ain't spreading germs that I don't know what to call it. Right before I left MCEF I got a misconduct on F unit. So I had to go to RHU (Restricted Housing Unit). I still had an indwelling catheter in my body with an open wound. When I got over to RHU I didn't have my sheets or they (c/o's) didn't clean my cell or mattress before I got there. When I got in my cell it looked like a tornado went through it (Paper everywhere, very dirty, bugs, the toilet and sink were disgusting, I even was afraid to urinate in the toilet, looked like it hadn't been cleaned for years) Wow!! How is this stuff legal? I was back there for 10 days and not one cell got cleaned one time. I don't even know if they do get cleaned. Mentally was this going to help me?

13. I applied for Behavioral Health Court while in MCEF right when I got there from the Norristown State Hospital. I was recommended by former Mental Health Psychologist Samantha. I chose to wait from getting sentenced right away and waiting the 6 months for an answer from a judge for BHC. It was something I never tried doing and I just lost my mother and tried taking my own life so it would probably be very good for me. I had 2 interviews in 6 months by BHC. Both people told me I was a good candidate. After 6 months I just had my surgery to because the counselor Mike DeLoste (who resigned before I received the answer) told me since I was homeless that they were going to put me in an assisted living place (Pickle) and in order to get in one I needed to have my surgery 1st. So I said OK and got it, but I really was going to wait till I got out for surgery. So then after surgery and 6 months I got the answer of getting denied BHC. So the Sam told me to appeal it and she will put in a good recommendation for me. So I said fine I waived getting sentenced again and could of got time served at 6 months but said I wanted BHC. So waited another 4 months and got denied. I truly wanted to better my life and was willing to sacrifice my

freedom for a chance at BHC. Did I deserve it? So now I wanna stand up for my self and others like me who get shut down and get mistreated by the Judicial system. They dont realize I am human to like them and created in HIS image like them also. I dont have a family anymore who is supportive of me. My mother was the only one who loved her son. Now after being in Jail I have heard a lot of things about my father (BAD THINGS), and believe he had something to do with my mothers death. I really am screwed up in the head now and cry almost every day and am afraid to ever confront my dad. Please Help me Please if you want can you find me someone who will? I am disabled and cant work also need another surgery when I get out to I am going to a homeless shelter from here in Reading (Hope Rescue Mission), then from the may Lehigh Valley to live with a friend.

14. I was on M-unit in cell 116 by myself because of having a catheter. So a couple of us inmates are medical inmates and we share a block with the working inmate (who have jobs in the prison). But on 9/24/17 at night sometime before 9:00pm an inmate (Ariel Streetz Cruz), worker inmate, wanted to fight me so he walks into my cell and calls me into my cell. I cant fight with someone especially after having brain surgery, almost died, PTSD, seizures, and a tube coming out of body with a bag on my leg. Just wouldn't be smart (Remember what happened in MCEF on E-unit) So I ignored him. He then, in front of everyone, came out of my cell storming over to me and spit in my face and said "You Pussy". So I stormed to my cell and slammed the door. Thats something that brings back a lot of memories and I dont do well with that stuff. So I then went over to Medical crying with 2 S.O.G. officers (officer Dew ) I sat and talked with a nurse and a S.O.G. officer for a little. I told the S.O.G. officer what happened and he said he was going to tell a Lieutenant to

go over the video camera tomorrow to see what happened and if needed give him a misconduct. Went to hospital that night to get a new catheter put in and came back to BCP the next day and found out Ariel never got a misconduct for being in my cell and spitting in my face, WHY? I also never seen anyone from MH the next day either (mental health), I even mentioned my mothers death to the nurse while crying so I should of seen MH. It doesnt make sense. While sitting over in medical waiting to go to hospital I said to the SOG officer (officer Dow) if he could tell his other SOG officer I was going to hospital, he rudely states to me "I dont care, you took your catheter out so you could go to the hospital I aint stupid." Wow again. US inmates get so poorly treated and nothing gets done.

14. Ive been putting sick calls in periodically for numerous reasons. The most recent one I recieved back (which is rare to be returned) was 10/25/17. The nighttime med cart nurse took it when she came to Murat to give night meds out. I asked on the sick call why after 4 months I have not gotten my seizure med levels checked? Also on there was that I keep getting severe headaches and would like motrin. So on 10/26/17 I heard the c/o calling peoples names for sick calls to go see the nurse. So they never call me why? Dont ever wanna see me. (But when I did get my med 10/26/17 my motrin was added but never said anything about my seizure meds)

15. On Oct. 5<sup>th</sup> @ or around Lunch time I went into PA Jesse's observation area in medical were he see's patients. I wanted my Super Pubic Catheter looked at. While laying on his med table my pants were down and a nurse just walks in unannounced while the curtain is closed. (Stephanie) She starts talking to Jesse about another patient (inmate) and his medical problems, and how he is faking everything; they then laugh So I cut



their conversation short and say to them politely if they could please wait till I leave to talk about someone. Its none of my business So they stopped. Is that how they discuss everyone?

12. Was told that you can also put in a lawsuit against the county prisons if you have been there for 6 months or more for eating food in your cell next to a toilet. They also said I must pay \$1,000 to the lawyer up front to take the case, but at the end I would get \$5,000 or more. (a promise) So would you also do that case for me I get \$1,000 for you (could do it against both Secks County and Montgomery County)

There is more I havent wrote about but I did put in there the major issues. My surgeon knows what happened at MCCF and I will get all my records from him and the hospital were I had surgery Also Reading Hospital were Dr. Saks told me that the hole that RN Judy was tying went in were near my bladder. I may need an attorney getting the medical records from PrimeCare for me. I have copies of all my grievances and have my communication forms along with sick calls from medical. I exhausted my remedies beyond what was needed. I wrote to both county solicitors. Wrote 2 letters to PrimeCare in Harrisburg. Also have most names of witnesses, c/o's, medical people involved, any body involved. Have written down a daily log of events (dates and times) The only thing is when I left MCCF on 6/20/17 the sheriffs wouldnt let me bring any of my property or paperwork from MCCF so Im trying to get it while here because they only hold it for 6 months (and im doing 6 months) So while here just in case I dont get it back im sending grievances and paperwork to MCCF from here (BCF) and to MCCF Warden. I am fully involved in this case. I feel this could be a strong suit to follow through with. Im on the Lexis Law Computer almost 3-4 days a week to look at other similar cases against PrimeCare

and to get knowledge of what they did wrong. Also getting insight on laws, amendments, different acts, case notes, and the constitution. Got a lot of notes on that stuff to. So whoever takes this case I would love to sit and go over something I wrote down.

Lastly I wanted to ask if I could throw the Anti-Bullying Act into this suit? Would it do any good, and does it go with institutions like jails or only schools. That would be a good thing if so.

So hope to hear from someone very soon. Please help me, Your call I got. If you could lead me in the right direction if you don't want the case would much appreciate it. Thanks Once again.

Read with sincerity and an open heart to. Do I or anyone deserve this?

The people at the main PrimeCare Headquarters in Harrisburg don't see what goes on in the workworld. So I must be someone who stands strong for my rights IF there is anything else I need to do let me know please. (Do I need the Act 1983 form and filled out? I want go Pro Se)

Urologist Dr. Steven Sterious and Surgeon

Dr. Simhan (Einstein Medical)

633 W. Germantown Pike Suite 203

Plymouth Meeting PA 19462-1032

# (610) 233-3130

Sincerely,

David Roth

David R.

11/14/17

(Still waiting for some grievances to be returned to me but will have them all soon) - Grievance on my mattress getting taken, and unsanitary conditions - I know of another inmate here at BCP right now who has a case against PrimeCare in BCP who they refused X-rays to his leg and it got infected so bad that he needed surgery to get his leg (a portion of his leg) amputated because they (PrimeCare - PA Jesse and NP Paula) refused him treatment and said there was nothing wrong with his leg. Now he is in a wheel chair for life. They are so corrupt I know I have a strong case and I will do what I need to



I was reading a lot of cases against PrimeCare and mostly the Plaintiffs went Pro Se and also didn't do enough paperwork to show how the Defendants (PrimeCare) violated. So when the Defendants would motion for a Summary Judgment and the Judge would grant it, the Plaintiff wouldn't have enough evidence to back up his case against PrimeCare. So I am doing what needs to be done so it will be moved into court to go to trial. Also all my claims against PrimeCare is all backed up because my Surgeon Dr. Simhan has it all documented and knows what they did to me. Resulting in me to get another surgery causing me so much pain and suffering plus a lot of psychiatric issues. I will stand up for myself now until they see what they do to people is not right. Another thing I want to mention is why are nurses aloud to date c/o's, or any Jail officials period? So if an inmate and a nurse have an argument the nurse will tell the person she is dating to retaliate (seen it happen) or it takes away what they really are suppose to be doing and what is there real Jail title or job duties. I see a lot of flirting and fraternizing happening between nurses and c/o's. Talk about going out to drink, to a bar after work, so much. Its disgusting. Not professional at all. But we are wrong how?

— Something else to think about —

Thank you

Paul R.

11/16/17

→

Here is an event that shows you a point just discussed. On 11/16/17 @ between 7:30am - 8:30am and 12:00 and 1:00pm (also this isn't the 1st time this happened, she is always over here multiple times a day whenever c/o Columbus is working the block) Psychologist Jessica Mahoney comes over to Minut and just stands at the c/o desk and talks to c/o Columbus about dating and hanging out. Don't know what else and don't really want to. Reason I say this is because I wrote multiple request slips to MH and asked to speak to someone and they either didn't answer or decline. Why, they have time.

Exhibit 3 Article

# Analysis says urgent care clinics prescribe unnecessary antibiotics

THE WASHINGTON POST

Nearly half of patients who go to urgent care clinics seeking treatment for a flu, cold or other conditions that don't require antibiotics received a prescription for one anyway.

That's three times as often as antibiotics are prescribed to patients with the same illnesses in traditional doctors' offices, according to a study published Monday.

Patients who get unnecessary antibiotics are at risk for severe side effects, even with just one dose of the medicine, doctors say.

Inappropriate use of these lifesaving drugs also puts others at risk because overuse accelerates the emergence of resistant bacteria, or "superbugs," that can't be stopped with drugs.

The analysis published in the journal JAMA Internal Medicine is the first study of antibiotic prescribing in the growing number of urgent care centers and retail health clinics, which together serve millions of patients at thousands of locations across the United States each year.

Retail clinics are embed-

## By the numbers

**10 million** Deaths per year by 2050 from antibiotic-resistant bacteria if left unchecked, a United Kingdom report has forecast, more than the number of people killed by cancer.

**\$100 trillion** Cost to the global economy by 2050 from antibiotic-resistant bacteria if left unchecked, the report forecast.

— The Washington Post

ded in grocery stores, big-box stores and pharmacy chains. Urgent care clinics typically treat worrisome injuries or illnesses that don't require an emergency room visit.

In the United States, nearly one-third of antibiotics, or about 47 million prescriptions dispensed every year, in doctor's offices, emergency rooms and hospital-based clinics, are not needed and not effective, according to a 2016 study by the Centers for Disease Control and Prevention and the Pew Charitable Trust, the first

to quantify the depth of the U.S. problem.

That 2016 study didn't have information about a key health sector: urgent care centers and retail clinics.

CDC and Pew researchers analyzed insurance claims from a 2014 database of more than 156 million patient visits to urgent care centers, retail clinics, hospital emergency departments and medical offices.

The database only included patients with employer-sponsored insurance.



## EXHIBIT 4

contents Letters & Responses Montgomery County Prison  
Montgomery County Solicitor

Inmate Name David RothBCP# 2014-5597Cell M101Date 10/26/17

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

## Administration Use Only

☐ Does not fit criteria for an emergency/sensitive grievance☐ Form is incomplete☐ Resubmit on proper form☐ Lacks details☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

My Grievance concerning MCCF and PrimeCare <sup>(Also BCP)</sup> are all written on lined white paper attached to this grievance. Dates and times and names may not all be there not just because may not have them but also because I did have a TBI (traumatic brain injury) in 08' which resulted in me having very short memory. It was hard to remember what I did on how long let alone yesterday. Not everything is stated either there is some more and some may be from Berks County Prison. I am writing and giving both counties. I am writing you on this paper so you can respond on this paperwork as I have it that you received it. I appreciate your time and hope you read all this with an open mind and whole heartedly. Thank you.

God Bless

(Attached is - pages of a letter and grievance)

David Roth

Grievances # 5 (BCP 1169-17, 1169-17 App - 1551-17, 1552-17 (both were appealed))

## FOR ADMINISTRATIVE USE ONLY

Grievance Response:

Grievance Answered By: \_\_\_\_\_

Date \_\_\_\_\_

Grievance # \_\_\_\_\_

Date Posted \_\_\_\_\_

Original: Treatment File

Canary: Return to inmate with response

FORM# REC120: (REV 2/10)

MY SIGNATURE:

David R.

Montgomery County Solicitor Shelly Smith

I, David Roth, am writing you this to inform you<sup>in</sup> regards of the letter and grievance attached to this is against mostly PrimeCare (Montgomery County and Berks County) But also there is Prison Officials included in my paperwork. Some may just be witnesses, or defendants. MCCF and PrimeCare <sup>(w/BCP)</sup> have affected me not only just physically but emotionally also. I truthfully believe I didn't deserve what cards were dealt to me. I got treated unfair and unjust, along with unconstitutional. I also believe that the judicial system along with the Public Defenders are very unfair. With all my health problems, while being described as disabled, and also what led up to my charges were never taken into account when my case was being looked at by both parties. So now since being incarcerated I am now faced with harsher more serious medical and mental <sup>health</sup> problems for the remainder of my life. This system is so corrupt that my previous jail times and <sup>prior</sup> record score were the only thing it seems were looked into when being sentenced. Why? There were obviously a lot more better things that could of been offered to me to not just skip jail time but in the long run save me from ever violating ever again, trying to take my life, or abusing drugs again. While being incarcerated not only did it escalate my mental health and my physical health, but I also lost my girlfriend and my only remaining family, along with my son, and financial funds. So now I hope standing up for myself and others not only better things for US <sup>(imprisoned)</sup> but also changes the way things are done eventually for people who are in need of things being overlooked. Now I must get out of Jail and work twice as hard as normal to get everything back again, is that the true meaning of Equal Rights and citizenship? No!!! I ask that you please read everything not only with an open mind but an open heart. Take into account that you are no different than me, you are human to and are one false move away from where I sit. It's time to stand for us Americans in Need.

Written By:

David Roth

David R. 10/27/18

(11P)

Lastly I would like to add that I was held back from filing paperwork mostly grievances at MCCF, mostly due to MCCF officials and staff, but also due to fear of retaliation concerning my medical needs and seriousness. I am so mentally and emotionally drained and changed from what I went through at that facility. I really hope something changes from these letters, it definitely needs to see action along with understanding also. Thank you.



Inmate Name David Roth MCCF # 16-07530 BCP# 2014-5597 Cell M101  
Date 11/13/17

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

**Administration Use Only**

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

**Statement:** Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

I am sending a grievance from BCP to MCCF because when asked for a grievance (multiple times) at MCCF I would always get denied, saying they didn't have any. So I am doing what I need to do, to get the word out of what was done to me at MCCF. When I left MCCF 6/20/17 the sheriffs wouldn't let me take my property (none of it, including paperwork), so I must do my paperwork here. All the paperwork that is sent with this grievance is the issues I am grieving. Some parts talk about issues at BCP also. I wouldn't be had from for everything so I wrote it separate after copying it. I would like if my answer be put on this grievance and sent back to me please @ Berks County Prison. If you can't answer it in this paper then if you could please send me something to let me know you received it. Thank you.

*[Signature]*

**FOR AMINISTRATIVE USE ONLY**

**Grievance Response:**

Grievance Answered By: \_\_\_\_\_

Date \_\_\_\_\_

Grievance # \_\_\_\_\_

Date Posted \_\_\_\_\_



INMATE GRIEVANCE FORM

Inmate Name David Roth

MCCF# 16-07530

BCP# 2014-5597

Cell M101

Date 11/14/17

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

☐ Does not fit criteria for an emergency/sensitive grievance

☐ Form is incomplete

☐ Resubmit on proper form

☐ Lacks details

☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

(Prison Care)  
I am sending a grievance from BCP to PrimeCare because I have matters I am grieving in both counties, MCCF and BCP. Also while was in MCCF I would ask for a grievance and they would say they don't have my case just wouldn't give me one. So I am doing what I need to do to get the word out of the things PrimeCare has done to me that just aren't right. Also when left MCCF 6/20/17 the sheriffs wouldn't let me take any of my property and paperwork so I don't know if I will get any of it back. The lined paper sent with this is the issues at both counties, MCCF and BCP (PrimeCare) that I am grieving. I wrote on this paper so my answer can be wrote on here and be sent back with you (PrimeCare) also having a copy. So if could please answer it and send answer back to me here at BCP by Dec 26<sup>th</sup> 2017 would be much appreciated. Thank You.

FOR AMINISTRATIVE USE ONLY

Grievance Response:

Grievance Answered By: \_\_\_\_\_

Date \_\_\_\_\_

Grievance # \_\_\_\_\_

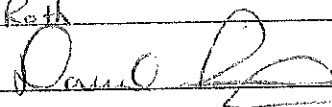
Date Posted \_\_\_\_\_

To M.C.C.F. Warden

7/10/18

I am writing you this because I have sent 2 grievances from here at Berks County Prison to M.C.C.F. on 11/13 and 11/14/17 along with paperwork discussing my grieving issues I was dealt with while at M.C.C.F. The reason I waiting till I got to BCP to send grievances was because while at M.C.C.F. I asked for a grievance multiple times and was always told they didn't have any. Also while at M.C.C.F. I would send request/communication form to medical or staff within the facility and it would never get answered and returned. So I was getting denied the grievance and request form services at the facility. So I had to do my best to get my issues known to your facility and exhaust my remedies one way or another. Those 2 grievances I sent to M.C.C.F. never came back to me while here. I am still dealing with medical troubles pertaining to PrimeCare at your facility. Every day I must deal with pain and discomfort, and if PrimeCare wouldn't of screwed up my surgery sight (the surgery I had last year while at M.C.C.F.) while then at M.C.C.F. I wouldn't have to go through this suffering. So I am writing you asking you if you received my grievances and if you answered them and if so could you please send the answers to me please. Thank you very much.

David Roth



2014-9397 BCP #

16-07530 M.C.C.F. #

**INMATE GRIEVANCE FORM**

# INMATE GRIEVANCE FORM

MCF # 16 - 07530

BCP# 2014-5597Cell M208Date 7/27/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

**Administration Use Only**

- ☐ Does not fit criteria for an emergency/sensitive grievance      ☐ Form is incomplete      ☐ Resubmit on proper form
- ☐ Lacks details      ☐ Must be completed in English

**Statement:** Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

**Statement:** Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)  
This is the 3<sup>rd</sup> grievance or 3<sup>rd</sup> try to send grievances through mail to MCEF to grievance issues I went through while at MCEF. Its said by the third circuit that transfer to another prison facility does not excuse the PIRA exhaustion requirement. While at MCEF no staff would give me a grievance when asked or stated they didn't have any. Also when I would put a communication form in it would never return to myself. What I am really grieving is what happened to me in and around Jan 2017 and June 2017 at MCEF. After I underwent bladder surgery at Einstein Montgomery Hospital by Dr. Surhan to make a suprapubic port into my bladder using my appendix, I went through 3 different events that made me have to let my port close, get infected, and have to get another surgery. First 2 incidents happened in Medical Dept by Penelope RUI July (2<sup>nd</sup> shift charge nurse) and by Dr. Sautter. They both went against my surgeons hand written orders to not have or let anyone other than me cath myself. They both tried multiple times trying to get straight catheter into a hole that was <sup>me</sup> wrong hole. Which resulted in back & blood <sup>(see)</sup> and pain. After that I went to E.R. at Einstein Montgomery

**FOR ADMINISTRATIVE USE ONLY**

**Grievance Response:**

**Grievance Answered By:** \_\_\_\_\_ **Date** \_\_\_\_\_

**Grievance #****Date Posted**

BCP# 2014-5597

Date 7/29/18

~~SECRET~~

☐ Does not fit criteria for an emergency/sensitive grievance      ☐ Form is incomplete      ☐ Resubmit on proper form

☐ Lacks details      ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific, list all dates, times, locations and witnesses.)  
From there I went to Dr. Simbrun's office and informed him of what took place. He stated that it must close up and he would have to do another surgery. Until he does the next surgery I must keep a Super pubic catheter inside my body. Causing lots of pain and discomfort. Another incident that happened was on and around April 2007, while I was on a regular housing unit I got into a physical altercation with another inmate. He entered my cell and pushed me on the ground and while on the ground he tried ripping my catheter out of my body. (The same night I went to Einstein Montgomery ER. for bleeding and discomfort, aka me having to take catheter out) \* While at Rensselaer Hospital and getting a Super pubic catheter placed by Dr. Jaki, he told me while viewing my catheter sight/surgery sight hole on a ~~radio~~ radiology screen that the hole Judy and Sestito were trying to use went no were near bladder. So now while in BCP and struggling with constant UTI's and pain, Dr. Simbrun stated he will not do surgery while incarcerated due to PrimeCare unprofessional actions. Now im suffering through so much pain

**Grievance Response:**

[illegible]

Date Posted

## EXHIBIT 5

Contents: Letter & Grievances to Berks County Prison  
Berks County Solicitor

BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

Returned copy of  
grievance from BCP  
Sanator Christine  
Sadler

Inmate Name David Roth

BCP# 20145597

Cell M101

Date 10/26/17

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form
- ☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

My grievance concerning MCCF, BCP, and PrimeCare are all written on lined white paper attached to this grievance. Dates and times and names may not all be ~~there~~ <sup>there</sup> not just because may not have them but also because I did have a TBI (traumatic Brain injury) in 08' which resulted in me having very short memory. Its even hard to remember what I did an hour ago, let alone yesterday. Not everything is stated either there is some more and some ~~correct~~ may be from Berks County Prison and Montgomery County Prison. I am writing and grieving both counties. I am writing you on this paper so you can respond on this paperwork so I have it that you received it. I appreciate your time and hope you read all this with an open mind and whole heartedly. Thank you

Original #s @ BCP 1169-17, 1169-17 App.

God Bless

(Attached is pages of letter and grievance)

1552-17 1551-17 (Both are appealed to)

FOR ADMINISTRATIVE USE ONLY

Grievance Response:

The grievance is denied. You failed to follow the procedures outlined in Section 10.3.6 of the inmate handbook. I am forwarding your concerns to DW Smith for her handling as she deems appropriate.

Grievance Answered By:

Christine M Sadler Christine M Sadler

Date 11/8/17

cc: DW S. Smith

Grievance # 1670-17

Date Posted 11/8/17

BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

Christine Miller → To: BCP Solicitor  
received back w/ answer  
11/9/17

Inmate Name David Roth

BCP# 20145597

Cell M101

Date 10/26/17

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form
- ☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

My grievance concerning MCCF, BCP, and PrimoCare are all written on lined white paper attached to this grievance. Dates and times and names may not all be there not just because may not have them but also because I did have a TBI (traumatic Brain injury) in 08' which resulted in me having very short memory. It's even hard to remember what I did an hour ago, let alone yesterday. Not everything is stated either there is some more and some ~~more~~ may be from Berks County Prison and Montgomery County Prison. I am writing and grieving both courts. I am writing you on this paper so you can respond on this paperwork so I have it that you received it. I appreciate your time and hope you read all this with an open mind and whole heartedly. Thank you.

Grievance #s @ BCP 1119-17, 1119-17 App

God Bless

(Attached is pages of 1 and grievance)

1557-17, 1551-17 (Both are appealed to)

FOR ADMINISTRATIVE USE ONLY

Grievance Response:

Grievance Answered By: \_\_\_\_\_

Date \_\_\_\_\_

Grievance # \_\_\_\_\_

Date Posted \_\_\_\_\_



Copy made 10/27/18  
@ BCP (2)  
TIME: 8:30pm  
MY SIGNATURE:  
D. Roth

Berks County Solicitor Christine Sadler

I, David Roth, am writing you this to inform you in regards of the letter and grievance attached to this is against mostly PrimeCare (Berks County and Montgomery County) But also there is Prison Officials included in my paperwork. Some may be just witnesses, or defendants. PrimeCare and BCP (w/ MCCF) have affected me not only just physically but mentally and emotionally also. I truthfully believe I didnt deserve what cards were dealt to me. I got treated unfair, unjust, and unconstitutionally. I also believe that the Probation/Parole, the Judicial system, and the Public Defenders are very unfair. With all my health problem while being described and pronounced as disabled, and also what led up to my charges were never taken into account when my case was being looked at by both parties. So now since being incarcerated I am now faced with harsher more serious medical and mental health problems for the remainder of my life. This system is so corrupt that my previous jail times and prior record score were the only thing taken into account when being sentenced for my violation. Why? There were obviously a lot more better things for my well being that could of been offered to me. Not to just skip jail time but in the long run but save me from ever violating again, trying to take my life, or abusing drugs again. While being incarcerated not only did it escalate my mental health and physical health, but I also lost my g/f and my only remaining family, along with contact with my son and financial funds. So now I hope standing up for myself and others not only better things for US (inmates) but also changes the way things are done eventually for people who are in need of things being over looked. When I was sentenced by Judge Keller at my Gay II. I explained my situation and my loss of my mother which resulted in me violating cause I couldnt handle it, he told me that they will offer me programs in BCP. Only 1 was available to me and had nothing to do with my situation. SAD!! So now when I get out I will have to work twice as hard as normal to get everything back again, is that the true meaning of Equal Rights and Citizenship? No!! I ask that you please read everything not only with an open mind but an open

heart. Take into account that you are no different than me, you are human, to  
and ore ore false move away from were I sit today. Its time to stand for us  
AMERICANs in NEED Thank you God BLESS

Written By:

David Roth

David Roth

10/27/19

- How do things change so drastically between 2 next door countries running  
with the same medical company?

- 1

PERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

To Berks County Solicitor  
Christine Sadler

Inmate Name David Roth BCP# 2014 5597 Cell M208  
Date 7/6/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

I am writing you about multiple events that happened at BCP. But the worst is the one that started before 5/18 and is still an issue. Due to being a long issue and would take up multiple grievances I wrote it on lined paper and will be sending copies of it along with this grievance. Hoping for my answer written on this form in a timely manner. Hope you read with open mind and a heart to understand we are all human beings. I have exhausted my remedies at the jail/institutional level. All grieving issues are stated on grievance #'s 0948-18, 0870-18, and 0922-18 (with all having been appealed)

FOR ADMINISTRATIVE USE ONLY

Grievance Response: This ~~grievance~~ is premature as it was written prior to you receiving a response on your pending grievance appeals. The issues you raise are all issues that you have addressed in previous grievances and appeals all of which received an appropriate response. You refused your appointment on 6/25/18. Neither BCJS or PrisonCare can force a particular doctor to treat you as a patient. Despite the timing issues discussed above, your grievance is denied. I have reviewed your situation in depth and conclude that you are receiving appropriate treatment. Grievances must be properly filed at jail using process

Grievance Answered By: Christine M Sadler Date 7/25/18

outlined in inmate handbook

CC: Warden Quigley  
DW Smith

Grievance # 1140-18

Date Posted 7/27/18

## EXHIBIT 6

Contents: Interview of Communication Steps to Berks County Medical &  
Prison Staff

Inmate Name David Roth BCP# 2014-5597 Cell M208  
Date 7/6/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

**Administration Use Only**

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

**Statement:** Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

My grievances are never answered pertaining to grievable issues. I have had a UTI since before 5/18/18 when I seen PA Jesse to get catheter changed. I am still having all symptoms of the UTI that I had before my catheter. None of the meds are working. But when put sick call in they are never answered and if they are its 2 weeks later. I seen the new PA Parn of 7/4/18 for my UTI and the constant pain and discomfort, vomiting blood, stomach crabs. Her only answers to my problems after telling her I've been fighting it for 9 weeks now was that they are waiting for a call back from my urologist and that she cant give me nothing for pain. So I must deal with this constant discomfort. I know know the reason they cant prescribe a med for pain. They know im not lying about the pain the urine cultures prove I have infection. While in MLCF the Dr Sustito gave me Oxycodone for my pain because she knows that UTI's are very painful along with having a super-painful catheter inside me at all times hurts to. So before I was done seeing PA Parn I had to ask her

**FOR AMINISTRATIVE USE ONLY**

**Grievance Response:**

Grievance Answered By: \_\_\_\_\_ Date \_\_\_\_\_

Grievance # \_\_\_\_\_ Date Posted \_\_\_\_\_

Inmate Name David Roth

BCP# 2014-5597

Cell M208

Date 7/6/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

**Administration Use Only**

- ☐ Does not fit criteria for an emergency/sensitive grievance    ☐ Form is incomplete    ☐ Resubmit on proper form  
☐ Lacks details    ☐ Must be completed in English

**Statement:** Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

if they could do another culture. She clearly stated yes. The next day they call me to give a urine for a dipstick test. That not what shows my bacteria and wasn't what was told she would give me. so I said no and put a sick call in. Then on 7/6/18 in the morning med line the nurse told me that was not getting my acid reflux med that I need because PA Pim said I gave her attitude. First I clearly only raised my voice so she should have me because it was loud in there. Also I feel that after over 5 weeks of dealing with 4 different antibiotics and constant pain and no sleep could result in being upset, don't you? Then being told there is nothing she could do (O you because they are all about numbers and for profit) (not the care of patients) I canceled my appointment for my surgeon because he was only for my surgery he is not my designated urologist, Dr. Steven Sterman is so I told them to schedule with him. PrimeCare Staff is very rude and seems to not care for the well being of their patients, only about seeing as many patients as possible per day to meet certain number criteria (Remember I know that is because was told that he psychologist Sam in MRCF so its not him)

**FOR AMINISTRATIVE USE ONLY**

**Grievance Response:**

Grievance Answered By: \_\_\_\_\_

Date \_\_\_\_\_

Grievance # \_\_\_\_\_

Date Posted \_\_\_\_\_



BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

Appeal  
# 6118-18

page 2

Inmate Name David Roth BCP# 2014-5597 Cell M208

Date 7/6/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form
- ☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

Lastly I have an answer to when you answered my grievance 09.22.18 by saying that I am receiving adequate treatment for my medical condition. Well actually I am not because any normal human being that walks into hospital with a UTI for over 3-4 wks is at high risk for kidney infection and are monitored for 24 hrs to make sure it doesn't happen. Why not here? They seem to think that UTI's are not serious enough. How about someone like me has had one every month I've been here. They don't even check my blood - there is something wrong. Not proper medical treatment actually. Also if I was receiving proper medical care then I wouldn't have to get another surgery again because time care nurses screwed up my surgery sight in MCRF resulting in having to let my direct bladder part to close. That's definitely not proper care. That is what you call Medical Malpractice - legal term operating below the standard of practice - putting profit before well being of their patients.

Please don't let them give medical professionals a bad name. They are doing a term used as BAD MEDICINE - Just because you are in jail doesn't mean I don't have rights and can get legal representation.

Grievance Response:

FOR ADMINISTRATIVE USE ONLY

Grievance Answered By: \_\_\_\_\_ Date \_\_\_\_\_

Grievance # \_\_\_\_\_

Date Posted \_\_\_\_\_

PERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

Inmate Name David Roth BCP# 2014-5597 Cell M208  
Date 7/6/18

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only		
<input type="checkbox"/> Does not fit criteria for an emergency/sensitive grievance	<input type="checkbox"/> Form is incomplete	<input type="checkbox"/> Resubmit on proper form
<input type="checkbox"/> Lacks details	<input type="checkbox"/> Must be completed in English	

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

lastly I am also suppose to be on seizure meds due to having 3 seizures after my brain surgery. I was on depakote and dilantin for them while on streets I was placed on Neurontin 800mg 3x a day for my seizures. (My urologist/surgeon Dr. Simtan requested me to be on that also) While here prior to this time, before 12/26/17 I was on a seizure med while here. Now when I came back not even 2 months later Primatec didn't give me my seizure med. Also took me off bottom tier only DOT. I have had a recently small grandma seizure while in MACE, so it hasn't been too long since my last one. No tests were done to see if I still needed meds. No AAG (I think that's what it's called) was scheduled, where your brain waves are tested. Why do they just take you off something without telling you? More scenarios showing improper care.

FOR AMINISTRATIVE USE ONLY

Grievance Response:

Grievance Answered By: \_\_\_\_\_ Date: \_\_\_\_\_

Grievance # \_\_\_\_\_

Date Posted \_\_\_\_\_

BERKS COUNTY JAIL SYSTEM  
INMATE COMMUNICATION FORMInmate Name: David RothBCJ #: 2014-5597  
Unit/Cell #: 4160 N:112Date: 7/25/17

(Didn't get back till Sept.)

TO: (Select only one of the following; selecting more than ONE box will result in your communication being filed unanswered.)

- |  |  |  |   |                                 |
|--|--|--|---|---------------------------------|
| <input type="checkbox"/> Booking/Mail/Property | <input type="checkbox"/> Custody       | <input type="checkbox"/> Inmate Accounts   | <input checked="" type="checkbox"/> Medical | <input type="checkbox"/> Warden |
| <input type="checkbox"/> Chapel                | <input type="checkbox"/> Deputy Warden | <input type="checkbox"/> Inmate Telephones | <input type="checkbox"/> SOG Commander      | <input type="checkbox"/> Other  |
| <input type="checkbox"/> Commissary            | <input type="checkbox"/> Education     | <input type="checkbox"/> Kitchen           | <input type="checkbox"/> Treatment          |                                 |

Write legibly, supply all relevant details. Forms which are unclear or contain demeaning language, threats or profanity will not be addressed. **ONLY ONE TOPIC PER COMMUNICATION.**

Would like to schedule an appointment with my urologist  
Dr. Stierman not Dr. Simhan. Thank you.

If no one is going to acknowledge my pain and suffering  
he will

(Finally Scheduled 9/18)

Note: Writing in "response" section will result in form  
being unanswered and filed.

Inmate Signature: David RothRESPONSE: 7/26/17 merged

I believe this is something you need to  
set up with treatment. We do not schedule  
outside providers to come in to the jail.

- Wrong - Seen PA Jessie on 9/18 and he said he is going to  
schedule an appointment with my urologist.

Date 8/9/17 Staff Member (Print) V. Stember KN DON and (Sign) [Signature] KN DONCC: LDit know how things are handled so why  
are they answering requests

# BERKS COUNTY JAIL SYSTEM INMATE COMMUNICATION FORM

Inmate Name: David R. PothBCJ #: 2014-5597Unit/Cell #: M-28N-112Date: 7/25/17

(Didn't get back till Sept.)

TO:

(Select only one of the following; selecting more than ONE box will result in your communication being filed unanswered.)

- |  |  |  |   |                                 |
|--|--|--|---|---------------------------------|
| <input type="checkbox"/> Booking/Mail/Property | <input type="checkbox"/> Custody       | <input type="checkbox"/> Inmate Accounts   | <input checked="" type="checkbox"/> Medical | <input type="checkbox"/> Warden |
| <input type="checkbox"/> Chapel                | <input type="checkbox"/> Deputy Warden | <input type="checkbox"/> Inmate Telephones | <input type="checkbox"/> SOG Commander      | <input type="checkbox"/> Other  |
| <input type="checkbox"/> Commissary            | <input type="checkbox"/> Education     | <input type="checkbox"/> Kitchen           | <input type="checkbox"/> Treatment          |                                 |

Write legibly, supply all relevant details. Forms which are unclear or contain demeaning language, threats or profanity will not be addressed. **ONLY ONE TOPIC PER COMMUNICATION.**

My surgery sight keeps bleeding and very painful but all medical wants to do is bandage it and then send me on my way. They moved me off a medical block because they didn't want to have to render to my needs anymore. Why I'm still on a medical block is beyond me. I shouldn't have to go through this pain and suffering here. I won't even get the surgery that I am suppose to get because medical here won't take care of me when released from hospital. I know that for a fact because last time I was here I had a procedure done at Lehigh and from non compliance to medical needs I got a bad kidney infection and it was painful.

So now I must suffer.

Note: Writing in "response" section will result in form being unanswered and filed.

Inmate Signature: David R. Poth

RESPONSE:

7/26/17 merged

You were seen by medical providers 7/28 and 8/2. You have also been scheduled with urology and been prescribed Tylenol #3.

Date 8/9/17Staff Member (Print) N. Stemler, RN DONand (Sign) [Signature]

CC:

## INMATE COMMUNICATION FORM

Inmate Name: David RothBCJ #: 2014-5597Unit/Cell #: M-12 N: 112 Date: 8/10/17

(Didn't get back till Sept-7)

TO: (Select only one of the following; selecting more than ONE box will result in your communication being filed unanswered.)

- |  |  |  |   |                                 |
|--|--|--|---|---------------------------------|
| <input type="checkbox"/> Booking/Mail/Property | <input type="checkbox"/> Custody       | <input type="checkbox"/> Inmate Accounts   | <input checked="" type="checkbox"/> Medical | <input type="checkbox"/> Warden |
| <input type="checkbox"/> Chapel                | <input type="checkbox"/> Deputy Warden | <input type="checkbox"/> Inmate Telephones | <input type="checkbox"/> SOG Commander      | <input type="checkbox"/> Other  |
| <input type="checkbox"/> Commissary            | <input type="checkbox"/> Education     | <input type="checkbox"/> Kitchen           | <input type="checkbox"/> Treatment          |                                 |

Write legibly, supply all relevant details. Forms which are unclear or contain demeaning language, threats or profanity will not be addressed. **ONLY ONE TOPIC PER COMMUNICATION.**

What do I gotta do to get the right treatment here? Every single day I am in agony, discomfort, pain, and can't sleep. Every time I ask to go to medical (like last night 8/9) I get rudely treated by nursing staff. Then they never tell me my results on my urine test since I told them my CIPRO ant working. They obviously don't care at all. I know what a UTI feels like since I've been dealing with this since 09. I've never had such poor medical treatment before. Seems like they just want the paycheck. The last time I saw Dr. Kochetzk, he made an assumption (poorly) that I was addicted to pain meds because his family had suicides and never used opiates. Well sorry to say everyone's body reacts diff to pain. He is a horrible Dr. I never knew you could be addicted to Tolerol 3's 2x a day. Taken like perscribed. I am sick of not sleeping in discomfort.

If someone would please have some care and concern would much appreciate it.

Note: Writing in "response" section will result in form being unanswered and filed.

Inmate Signature: David Roth

RESPONSE:

Triage Room (RM) 8/14/17

You were seen by Dr. Cohen 8/2 and ordered T3/2 at night and you have been receiving it since then. You were scheduled to see Dr. Wloaczewski 8/14 and you refused. You are also scheduled to see urology for a follow up. (Will not see different dr. every time and Dr. Wloaczewski is really negative)

Date 8/16/17 Staff Member (Print) N. Stemler, RN DON and (Sign) [Signature] RN DON

CC:



Inmate Name David Roth

BCP# 20145597

Cell M 121

Date 8/15/17

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

I first got here in BCP 6/20, I got my catheter put in 6/11 while at MCCC. I was complaining of discomfort and pain for a while when I got here. Urine was tested and had UTI, was put on Cipro. Then after off the cipro got more discomfort so got back on cipro. The pain and discomfort just got worse so on 7/25 went to medical at 10:30am and told the nurse my problem and was going to take catheter out. She then just said take your antibiotic and try to sleep tomorrow see Jessie. Couldn't so I look it out properly. Then went to Reading Hospital (Catheter was in 2 weeks too long). I did medical - Jessie, Dr. Kachetski, and nurses. It needed to get changed but new did. (Lack of Medical Attention) While at Reading Hospital got my urine tested and had a definite UTI. (Cipro wasn't working) (Also check records how high my blood pressure was before left for hospital) I shouldn't have to decide what to do, isn't it medical's job? When catheter was removed Dr. Kachetski said that was a very good path for an

FOR ADMINISTRATIVE USE ONLY

Grievance Response: MR. Roth - You have supplies to straight cath  
yourself that you keep with you. 8/2/17 you did see Dr. Cohen  
regarding your concerns and a urology appt was set up for this month.  
8/23/17 you were seen in the medical department by Jesse, who  
put your removal of your own suprapubic cath. Jesse attempted to  
insert of Foley cath and met resistance. You also tried to straight cath  
yourself with no success. Jesse did arrange to send you out for  
further evaluation. ~~See~~ You left AMA from this post suprapubic cath  
replaced. You were offered telap 11-3 which you refused stating you wanted  
Pentamyl. Then you later decided to stay at hospital for observation. Then signed out.

Grievance Answered By: Metijah Moseley, RN HCA

Date 8/23/17

Grievance # 1169-17

Date Posted 8/23/17

Never asked for  
fantasy, trying to make  
me sound bad  
(OR)

(Why is an RN answering  
this? she doesn't even  
know the procedures  
done here)



BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

Page 2  
(continued)

Inmate Name David Roth BCP# 2014-5597 Cell M121

Date 8/15/17

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form
- ☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

He said that his family had surgery and didn't need it. He said I must be addicted. I tell everyone not to painkillers. Also I have had brain surgery and 3 prostate surgery and 3 bladder surgeries, plus going for another one. (PrimeCare is the reason for this surgery while in MCRF) How am I addicted when I only requested Tylenol 3's every day at night to sleep? Makes no sense. Also how comes I don't have a regular Dr. when I go to medical I think I have been around to every Dr. that works here and when see them have to explain my case all over again and I hear all different every time. Now I want see Dr. Kuchetko, since he just seems to just care about money medical problems. On 8/12 went to medical because needed help getting medication in (since I had to take mine out again from pain) I got there and LPN got rude to me so I said I want to see any nurse to try because of pain. She told me that the medication to help if I don't like it don't come to Jail. I tell that was unprofessional it is a nurse's job to help a patient no matter who they are with any medication. It's their duty. She shouldn't work here.

FOR ADMINISTRATIVE USE ONLY

Grievance Response:

See page 1 of 3

Grievance Answered By: Mitchell Mont RN LISA

Date 8/23/17

Grievance # 1169-17

Date Posted 8/23/17

Inmate Name: David Roth BCP# 2014-5597 Cell M121  
Date 8/16/17

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

Went to medical on 8/9 @ 9:35 pm to find out why I was still having a lot of discomfort and pain while on Cipro. LPN Katie tested my urine and told me she will let me know the results and sent me back to m-block. (while going into the back of medical LPN Katie got an attitude and said "you just had your pain meds") im not trying to get more I want the right antibiotic.

Why cant I go see my primary urologist (Dr. Stencious)  
How Long Do I have to deal with this Discomfort and Pain before something gets done? Now im self cathing myself and really not suppose to, but sick of the pain. Im now bleeding constantly and I am some what incontinent and leak urine in my boxers every day, all day.

FOR AMINISTRATIVE USE ONLY

Grievance Response:

See page 1 of 3

Grievance Answered By: Muthy Dymond RN 1157 Date 8/23/17

Grievance # 1169-17

Date Posted 8/23/17

BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

Inmate Name David Roth

BCP# 2014-5597

Cell M-121

Date 8/24/17

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form
- ☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

Grievance # 1169-17 Appeal - My Grievance I wrote never was answered by anyone or said anything back concerning my matters I addressed to them. Also when I went to hospital on 8/22/17 the hospital did a procedure on me that involved cutting me open. They then wanted to keep me there for observation till next morning. When was done and got to my room they only wanted to give me motrin or tylenol. I was screaming in pain. So I went AMA. I never asked for Fentanyl as someone said in the grievance. Also I had 2 surgeries at MCCF before I came here. It was to make a new passage into my bladder so I didn't have to cath myself through penis anymore. The surgery was a success and was working great. My surgeon trained me how to insert catheter a specific and right way, also that I was the only one suppose to do it. No one else. Well I had troubles while at MCCF getting catheter in. So went to medical and told RN Judy to see if she could call my surgeon. She insisted to try also. I told her that it was stat at the time. She said (It was also in writing.) She insisted she must. She then tried and she made her own hole and pushed and pushed making me scream in pain.

Grievance Response:

Extension needed to further review DW S. Smith

First, your grievance was answered on 8/23/17 by Mitzi Montz, USA. The issues you are raising about your care at MCCF are out of my jurisdiction. Per your own statements and the original response you were being treated for your condition and even sent out to the hospital for evaluation. The medical department is staffed to ensure quality + efficiency in the provision of care. You can request any provider come in to see you + if they agree, medical will coordinate.

Grievance Answered By:

DW S. Smith SS-2

Date

9/19/17

Grievance #

1169-17

Date Posted

9/19/17

BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

Inmate Name David Roth

BCP# 2014-5597

Cell M-121

Date 8/24/17

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form
- ☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

inmate - So now I got to keep catheters in till I get out because of Prime Care. I just went to ER  
ending on 7/85 to get new catheter put in. When I was in RT getting set up for procedure the  
r. looked into the hole the RN Judy made to see if it went into my bladder and he said it  
yes he were near my bladder. (So all this is my fault? All this pain and suffering?) My cath.  
then I got here stayed in 2 weeks too long. I had to complain to almost all of medical  
dept. before I had to put in my own hands and take it out my self. (Properly) (lack of Me.  
dication) Why should I also have to see a different dr. every time I go to medical? Then  
I have to discuss my health issues all over again and get hassled differently everytime. I went  
called on 8/12 for pain and discomfort (Cipro wasn't working) Also needed help getting slight cat  
. LPN Katie told me some rude things because my patience is getting thin against Prime Care. So  
on told her that I only trust Jesse to put in Cath. She then got angry and stated that the  
ie trying to help me and if I don't like it don't come to Jail" This not medicals concern of why im  
Jail or who I am, or what race or color I am. There concern is only my medical needs with no  
discrimination. She was very unprofessional.

FOR ADMINISTRATIVE USE ONLY

Grievance Response:

this appointment was answered on 8/23/17  
Makes decisions about what specialists to use in the  
Community. You have been prescribed pain medication  
not just tylenol but tylenol 3. You are being  
seen weekly and recently refused an outside  
urology appointment 9/12 + provider lines 9/13 + 9/14. Regarding  
your claims that medical staff have been  
rude or unprofessional, I will look into that  
and follow up with them as needed.

Grievance Answered By: DW S. Smith

Date 9/19/17

Grievance # 1169-17

Date Posted 9/19/17

BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

POB 3

Inmate Name David Roth

BCP# 2014-5597

Cell M121

Date 8/24/17

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form
- ☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

On 8/9 I went to medical around 9:35pm to find out why I was still in lots of pain and discomfort and on Cipra. LPN Katie tested my urine and sent me back to M unit and told me she will let me know the results. (When arrived in medical she stated to me that I just had my tylenol) I wasn't there for more pain meds I was there for the right antibiotic. I've been waiting to see my own urologist who knows all my history. They won't send me to him. While here I have been experiencing so much pain and discomfort and nothing gets done. Why do I have to when PrimeCare is the <sup>culprit</sup> to my problems at this given moment. They seem to just want to get you seen and out as quick as possible. I have to get another surgery due to PrimeCare. So I should get treated a little better. They don't seem to understand that we are all human beings and all deserve the same level of care as they do or everyone else. Someone needs to stand up for themselves like I am doing. The answer to my other grievance states nothing about what the grievance was about. It was just to make me feel low about myself. PrimeCare is an unjust company. Something needs to get done about this stuff going on before something serious happens to an inmate.

Grievance Response:

See pg 1-2

Grievance Answered By: DW S. Smith

Date 9/19/17

Grievance # 1167-1512

Date Posted 9/19/17

Original: Treatment File

Canary: Return to inmate with response

FORM# REC120 (REV 2/10)



BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

Inmate Name David Roth BCP# 2014-5597 Cell M121  
Date 8/24/17

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific, list all dates, times, locations and witnesses.)

I put in a sick call 8/25 and @ 6:00pm when collected by the 2 nurses who were doing meds, both looked at my sick together and then looked @ me standing at my cell door and laughed at me. (They must think my issue is a joke) They are very unprofessional -- while on F-block in MCEF I got in an altercation with another inmate (around 6/15) ~~XXXXXXXXXX~~ The inmate tried pulling my catheter out of my body. Leading me to go to ER that same night. So I've been through a lot while incarcerated this time. It's not a laughing matter. It's very painful and a lot of discomfort every time a catheter is attempted to be inserted into my bladder & not just from the scrapes and punctures formed on the walls of my urethra from previous attempts but also from having it in so long. The who reason behind my surgery.

FOR ADMINISTRATIVE USE ONLY

Grievance Response:

See pg 1-2

Grievance Answered By:

DW S. Smith SRR2

Date

9/19/17

Grievance #

1169-17

Date Posted

9/19/17



**BERKS COUNTY JAIL SYSTEM**  
**INMATE COMMUNICATION FORM**

Inmate Name: David RothBCJ #: 2014-5597  
Unit/Cell #: M116Date: 9/16/17FO: (Select only one of the following; selecting more than ONE box will result in your communication being filed unanswered.)

- |  |  |  |   |  |
|--|--|--|---|--|
| <input type="checkbox"/> Booking/Mail/Property | <input type="checkbox"/> Custody       | <input type="checkbox"/> Inmate Accounts   | <input checked="" type="checkbox"/> Medical | <input type="checkbox"/> Warden                  |
| <input type="checkbox"/> Chapel                | <input type="checkbox"/> Deputy Warden | <input type="checkbox"/> Inmate Telephones | <input type="checkbox"/> SOG Commander      | <input checked="" type="checkbox"/> Other Deputy |
| <input type="checkbox"/> Commissary            | <input type="checkbox"/> Education     | <input type="checkbox"/> Kitchen           | <input type="checkbox"/> Treatment          | Warden of Medical                                |

Write legibly, supply all relevant details. Forms which are unclear or contain demeaning language, threats or profanity will not be addressed. **ONLY ONE TOPIC PER COMMUNICATION.**

Went to the hole Sept 1st for having a piece of paper on my light which wasn't put there by me. Anyways I recently had 2 operations on my bladder at Montgomery County Prison before arriving here. Now have to have 3rd operation due to Prime Care's malpractice. So I've been experiencing pain and discomfort continuously. No one seems to care or understand my level of pain. They think in drug seeking, but they seem to not want to send me to my primary urologist who prescribes me oxycodone 30 mg for a reason. He understands. (Also was receiving them in MOCF) Now when went to the hole I was housed in Medical due to having a super public catheter in me. I've been having catheters in and out for over 1yr now while incarcerated and is getting even more painful due to frequency. I sometimes have to remove them myself PROPERLY because of pain and no sleep. When got to medical Sept 1st I told a nurse (An RN who does vitals for Jessie & Paula) that I need my mattress because of catheter, to ask Jessie if he would write a DOT please so C/O's can't take it from me. She came back to me and said Jessie said NO. So for those 7 days without a mattress I couldn't sleep and was in agonizing pain and discomfort. And now the 11th and still experiencing a lot of pain. It won't stop. Hurting significantly. No sleep. Want see no Drs here because don't trust them now. Help Me please

Note: Writing in "response" section will result in form being unanswered and filed.

Inmate Signature: David Roth

RESPONSE:

9/18/17 SLK triage AK  
 SLK triage AK 9-19-17

↑  
 Didn't Get Answered by who it was  
 suppose to go to (why)

Date \_\_\_\_\_ Staff Member (Print) \_\_\_\_\_ and (Sign) \_\_\_\_\_

CC: \_\_\_\_\_

## INMATE COMMUNICATION FORM

BCJ#: 2014-5597

Unit/Cell #: ~~MTX~~ N:114

Date: 9/20/17

Inmate Name: David Roth

**O:** (Select only one of the following; selecting more than ONE box will result in your communication being filed unanswered.)

- |  |  |  |   |  |
|--|--|--|---|--|
| <input type="checkbox"/> Booking/Mail/Property | <input type="checkbox"/> Custody       | <input type="checkbox"/> Inmate Accounts   | <input checked="" type="checkbox"/> Medical | <input type="checkbox"/> Warden                                |
| <input type="checkbox"/> Chapel                | <input type="checkbox"/> Deputy Warden | <input type="checkbox"/> Inmate Telephones | <input type="checkbox"/> SOG Commander      | <input checked="" type="checkbox"/> Other <u>Mental Health</u> |
| <input type="checkbox"/> Commissary            | <input type="checkbox"/> Education     | <input type="checkbox"/> Kitchen           | <input type="checkbox"/> Treatment          |  |

Write legibly, supply all relevant details. Forms which are unclear or contain demeaning language, threats or profanity will not be addressed. **ONLY ONE TOPIC PER COMMUNICATION.**

I would please like to talk to a Mental Health Person please. I have been through so much in this incarceration (12 months), from MCCF-BOP mental that its literally tearing me apart inside and out. Im here in jail for trying to take my own life due to losing my mom (Aug. 23, 2015) and seeing her deceased on the living room couch when woke up, and from my health problems I've been dealing with since 08, and getting told I might have prostate cancer. So I tried overdosing on heroin. I lost my whole family since my mother died. Also heard some very troubling things about my father while incarcerated, that is messing with my head and making me believe my dad killed my mother. Im alone through everything now. Never had to be alone when my mother was here. So Ill stop there about that and talk about mom face to face. But main reason is my health right now. My surgery I got in MCCF was to fix everything wrong and it did until PrimeCare took it upon themselves to go over my surgeons orders and screw up my surgery. Now I am suffering mentally and physically for this. Its hard to keep calm and collective (speech wise). My medication isnt helping. Ive been on so many and nothing is helping me. I would like to talk to a professional please. Is this what I deserve? I need another surgery but dont want it done here since medical is horrible here. Thank you.

(Im not suicidal or wanting to hurt someone or self) I try to resist

Note: Writing in "response" section will result in form being unanswered and filed.

Inmate Signature: David R

RESPONSE:

You will be seen by the MH department

Date: 9/20/17

Staff Member (Print) SSWARTZ

and (Sign)

C:

## INMATE COMMUNICATION FORM

Inmate Name: David RothBCJ #: 2014 5597Unit/Cell #: M101Date: 10/13/17TO: (Select only one of the following; selecting more than ONE box will result in your communication being filed unanswered.)

- |  |  |  |   |  |
|--|--|--|---|--|
| <input type="checkbox"/> Booking/Mail/Property | <input type="checkbox"/> Custody       | <input type="checkbox"/> Inmate Accounts   | <input checked="" type="checkbox"/> Medical | <input type="checkbox"/> Warden                                |
| <input type="checkbox"/> Chapel                | <input type="checkbox"/> Deputy Warden | <input type="checkbox"/> Inmate Telephones | <input type="checkbox"/> SOG Commander      | <input checked="" type="checkbox"/> Other <u>Mental Health</u> |
| <input type="checkbox"/> Commissary            | <input type="checkbox"/> Education     | <input type="checkbox"/> Kitchen           | <input type="checkbox"/> Treatment          |  |

Write legibly, supply all relevant details. Forms which are unclear or contain demeaning language, threats or profanity will not be addressed. **ONLY ONE TOPIC PER COMMUNICATION.**

I have been telling mental health since I got here that I've been depressed and can't sleep due to losing my mother and the things medically wrong with me and the way medical (Prime Care) is handling my medical needs. I don't trust anyone from Prime Care now since what's been happening to me. Mental health seems to not care about people who need to sit down and discuss their issues that are affecting them mentally (To me it is some serious issues) I was seeing mental health a lot in Mccf and they are Prime Care to. Now since I got here I haven't been following up on Mental health issues. (It should be in my records) Can I please see someone?

(I don't want to harm myself or others)

Note: Writing in "response" section will result in form being unanswered and filed.

Inmate Signature: David Roth

RESPONSE:

seen by MH department on 10/10/17 and 9/27/17. You are scheduled to be seen by the psychiatrist. If you are unable to come to the appointment please submit referral to Treatment department.

Staff Member (Print) SWARTZ and (Sign) [Signature]

3:

## INMATE COMMUNICATION FORM

Inmate Name: David Roth

BCJ #: 2014-5597  
Unit/Cell #: M101

Date: 10/13/17

TO:

(Select only one of the following; selecting more than ONE box will result in your communication being filed unanswered.)

- ☐ Booking/Mail/Property    ☐ Custody    ☐ Inmate Accounts    ☒ Medical    ☐ Warden  
☐ Chapel    ☐ Deputy Warden    ☐ Inmate Telephones    ☐ SOG Commander    ☐ Other \_\_\_\_\_  
☐ Commissary    ☐ Education    ☐ Kitchen    ☐ Treatment

Write legibly, supply all relevant details. Forms which are unclear or contain demeaning language, threats or profanity will not be addressed. **ONLY ONE TOPIC PER COMMUNICATION.**

I would like to get all my outside appointments cancelled and to have medical not call me down for anything anymore. Your medical staff is very unprofessional and very rude to us inmates. Another one blatantly said to me again Oct 10th "If I don't like it don't come to jail" W/aw is all I need to say. So I don't want none of your help with anything. I have no trust in any of PrimeCare at all.

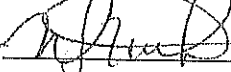
Thank you

Note: Writing in "response" section will result in form being unanswered and filed.

Inmate Signature: 

RESPONSE: I agree 10/11/17 you saw

If you cancel all further outside appointments and refuse medical care all of your medications will be discontinued. Please let me know if this is really what you would like to do. Thank you

(I only cancelled one, and that was for my surgeon because all he was going to do was schedule surgery I had a nurse call to tell him I get but in 1 1/2 months I will schedule then and she said she called him)  
 Date 10/24/17 Staff Member (Print) N. Stemler, RV DW and (Sign)  RV DW

CC:



BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

Inmate Name David Roth

BCP# 2014-557

Cell M 101

Date 10/13/17

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form
- ☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

On Oct 10<sup>th</sup> around 8:30pm I went to medical to get a dressing put around my suprapubic Cath site. While getting my dressing on I tried asking the nurse ~~(Name)~~ some questions and she kept refusing everything I asked. She kept saying I am so thick headed so I let it go. While walking out of medical a nurse (Morgan-name) was standing by a med cart listening to my conversation and she rudely butted into it and blatantly stated "If you don't like it don't come to Jail" That was very rude and unprofessional. Medicals Job is our well being and medical needs and health. It has nothing to do with why we're in jail or us being in jail. So that pretty much means to me that since we are in Jail they (nurses) don't have to care fully about us then. So there job isn't that important then. (Maybe a form of retaliation since this isn't the 1<sup>st</sup> time a nurse said this to me)

FOR ADMINISTRATIVE USE ONLY

Grievance Response: MR. Roth, the medical staff act in a professional manner. If you have a medical concern please feel free to place a sick call. EOR

Grievance Answered By: Muth R Morgan HSA

Date 10/17/17

Grievance # 1557-17

Date Posted 10/17/17

Original: Treatment File

Canary: Return to inmate with response

FORM# REC120 (REV 2/10)

BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

M101

Inmate Name David Roth

BCP# 2014-5597

Cell M101

Date 10/13/17

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form
- ☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

On Oct 12<sup>th</sup> 2nd shift C/O Weidner @ medline was really unprofessional and very disrespectful. I went up to the med cart to get my meds and I showed my empty cup to the nurse along with my mouth. Then while walking back to cell C/O Weidner said to the other C/O to check my mouth. So he did and I showed him with no problem. Then while in my cell I was talking to my neighbor. Then C/O Weidner opens my cell and very disrespectful yells to me "Whats that you say you wanna kill your self?" Then laughs about it along with the nurse doing med cart. like it was a joke. To me that is no joking matter. I just lost my mother who was only 53 yrs old and since then I did try taking my life, so I dont take that lightly. C/Os should not be able to joke about that since they dont know what anyone is here for or going to. (No I dont want to take my life or hurt myself or anyone else) Also me trying to take my own life happened over a yr ago.

FOR AMINISTRATIVE USE ONLY

Grievance Response:

OFFICER WAS REMINDERS TO BE PROFESSIONAL AT ALL TIMES AND NOT TO MAKE INAPPROPRIATE COMMENTS OR JOKES

Grievance Answered By: LT Schlemmer/ H. Schlemmer

Date 10-27-17

Grievance # 1530-17

Date Posted 10-27-17



BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

Inmate Name David Roth BCP# 2014 5597 Cell M101  
Date 10/14/17

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

On Oct. 12<sup>th</sup> when (RN Christina or Christine) the night med nurse with the med cart was on the block. I was in my cell after receiving my meds. I was talking to my neighbor, then out of no where the C/O Weidner hits my cell door open. He then says "What did you say you wanna kill yourself" After he said that the Nurse at the med cart says yea. I heard him say it. They both then began laughing and cracking up like it was a joke. To me that is not a joking matter and is pretty serious. Since I just lost my mother at the age 53 and wake up to her dead on the couch. You dont play around with that stuff. Very unprofessional. It was also heard from other inmates that she said that. I also never said anything along those lines to anyone. I was having a conversation with cell 103. There should def. be repercussions for that stuff. (Will watch for retaliatic (Do not want to harm myself or anyone else) (Those words never came out my mouth)

Grievance Response: Mr. Roth this matter will be looked into. If you need to talk with anyone regarding the loss of your mother, please put a sick call in for the mental Health staff. For

Grievance Answered By: Matthew Moryan HSA Date 10/17/17

Grievance # 1552-77

Date Posted 10/17/17

Original: Treatment File

Canary: Return to inmate with response

Medical  
FORM# REC120 (REV 2/10)

WZ

BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

(Appeal)  
1552-77

Inmate Name David Roth

BCP# 2014-5597

Cell M101

Date 10/18/17

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

On Oct 12<sup>th</sup> when (RN Christina or Christine, not sure which one it is but can find out) the night med nurse with the <sup>Med</sup> cart was on the block. I just got in my cell after taking my meds. I was discussing something my neighbor asked me to my neighbor. (nothing to do with suicide) Then out of no where (Jo Weidner hits my cell door open. He then says "What did you say you wanna kill yourself?"). After that was said the Nurse Christina at the med cart laughs and says to the (Jo Weidner "yep I heard it" then looks at me and laughs. like it was supposedly funny and a joke. To me that is not a joke or funny, its pretty serious matter. I wouldnt be writing this if I did say that. Since I just lost my mother Aug. 23<sup>rd</sup> 2015 at age 53 and waking up to her dead on the couch I dont take that stuff lightly. You dont play around with that stuff at all. Very Unprofessional. Something is to be said to them why should they be allowed to say that stuff. Also since they have no idea anyone is here. Also medical has no right to know why Im here. Only should care about my needs medically) and well being. No harm to myself or others.

FOR ADMINISTRATIVE USE ONLY

Grievance Response:

10/31/17 Deadline for response extended.

I have reviewed this with the medical administrator and will reinforce the importance of professionalism, however I am not convinced that your interpretation / version of events is completely accurate.

Grievance Answered By: DW S. Smith

Date 10/31/17

Grievance # 1552-77

Date Posted 10/31/17

BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

(Appeal)  
1551-17

Inmate Name David Roth

BCP# 2014-5597

Cell M101

Date 10/18/17

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form  
☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

On Oct. 10<sup>th</sup> around 8:30pm I went to medical to get my dressing changed for my SP catheter. While getting it changed I was asking the nurse some questions about my broken hand. She just kept refusing to help so I let it go she then stated I was really thick headed. While walking out of medical nurse RN Morgan was standing by her med cart and listening to my conversation with the other nurse. She rudely butted into the conversation and said to me "If you don't like it don't come to Jail." (Very unprofessional to nurse. Medical's job is to take care of our medical needs and our well being. It has nothing to do with why we are in jail or us simply being in jail. They shouldn't even label us as inmates. That pretty much means to me that they do see us as inmates and that we are not of major concern to medical. So they don't have to care about us fully, unless we were a hospital on the street then it would matter. (This might have been a form of retaliation since this was the 1st time I was told this) (Why does an RN answer grievances since she isn't higher than an MD or PA or NP?)

FOR ADMINISTRATIVE USE ONLY

Grievance Response:

10/31/17 Deadline for response extended. granted

This is not a grievable issue however I did look into it with the medical administrator. We encourage all staff to be professional and uphold that standard consistently.

Grievance Answered By: DW S. Smith

Date 10/31/17

Grievance # 1551-17

Date Posted 10/31/17

**BERKS COUNTY JAIL SYSTEM**  
**INMATE COMMUNICATION FORM**

Inmate Name: David RothBCJ #: 2014-5597  
Unit/Cell #: M101Date: 10/23/17

**O:** (Select only one of the following; selecting more than ONE box will result in your communication being filed unanswered.)

- |  |  |  |  |  |
|--|--|--|--|--|
| <input type="checkbox"/> Booking/Mail/Property | <input type="checkbox"/> Custody       | <input type="checkbox"/> Inmate Accounts   | <input type="checkbox"/> Medical       | <input type="checkbox"/> Warden                                |
| <input type="checkbox"/> Chapel                | <input type="checkbox"/> Deputy Warden | <input type="checkbox"/> Inmate Telephones | <input type="checkbox"/> SOG Commander | <input checked="" type="checkbox"/> Other <u>Mental Health</u> |
| <input type="checkbox"/> Commissary            | <input type="checkbox"/> Education     | <input type="checkbox"/> Kitchen           | <input type="checkbox"/> Treatment     |  |

Write legibly, supply all relevant details. Forms which are unclear or contain demeaning language, threats or profanity will not be addressed. **ONLY ONE TOPIC PER COMMUNICATION.**

Was wondering why since coming here from Montgomery County Correctional Facility and seeing mental health there every week because before I went there I was in Norristown State Hospital. Now I'm here and I can't even see mental health 1x a month. MCEF is also Prime Care, so it should be in my records. I was also seeing them at MCEF for not just losing my mother but because of my PTSD and my health issues weighing on me. I came here and saw mental health 1x. Now mental health here tells me that I must see treatment (counselor) for counseling. That's not true because a psychologist's job is to talk to patients with Mental Health issues. My issues are pre-existing. Seems like they only assist people who are suicidal or in trouble. Why is that so different from County to County if it is the same company running the Mental Health? It doesn't make sense.

I do have PTSD (I'm not suicidal to myself or anyone else) am head trauma (Not thinking of self harm to myself or others either) from seeing my mother and in the sold with also. Hopefully can see someone eventually. Thank you

Note: Writing in "response" section will result in form being unanswered and filed.

Inmate Signature: David Roth

RESPONSE: 10/24/17 No thoughts of self harm still in

BJS provides individual counseling in MH issues as part of the Treatment Department. Please submit appeal slip to this department

Date 10/24/17 Staff Member (Print) SWARTY and (Sign) [Signature]

CC:



BERKS COUNTY JAIL SYSTEM  
INMATE GRIEVANCE FORM

Inmate Name David Roth

BCP# 2014-5597

Cell M101

Date 10/18/17

Instructions: Refer to the inmate handbook for information on the inmate grievance system.

Administration Use Only

- ☐ Does not fit criteria for an emergency/sensitive grievance ☐ Form is incomplete ☐ Resubmit on proper form
- ☐ Lacks details ☐ Must be completed in English

Statement: Detail the act or condition which caused this grievance. (Be specific; list all dates, times, locations and witnesses.)

(Mental Health) Since I have been here for 4 months I only seen Mental Health 1-2 times for very short periods of time. Since my last session I have wrote and spoke to a psycholo about needing to talk to someone about my mental health issues pertaining my medical problem and the loss of my mother. Have never got a communication form back from when submitte on Oct. 3rd and Oct. 13th, why? When I was in MCCF before here I was seeing Mental Health every week and they are PrimeCare to. I am also a mental health/medical inmate. Mental health also never gave me the right dose of Prozac. I was an indigence in MCCF (was on 60 mg, only get 20 mg here) I don't feel my better while taking it, but never get to see a dr. about it either. Something is definitely not right about this. Mental Health seems to only see people who are suicidal, which shouldn't be the case. I'm also on a medical block. Seems to me while I was on N until they just got me out of there because they don't like me. Moved me from N-M Oct 9th without getting to speak to anyone first, why is that. **FOR AMINISTRATIVE USE ONLY** Haven't seen no one from both medical/ for over 2 weeks.

Grievance Response:

SCEN BY TINA NICKIS ON  
11/3/17 If you are interested in  
working through please  
submit request to Treatment  
Department

Grievance Answered By: S. Smith

Date 11/3/17

Grievance # 11010-17

Date Posted 11/10/17

Original: Treatment File

Canary: Return to inmate with response

## INMATE COMMUNICATION FORM

Inmate Name: David RothBCJ #: 2014 5597Unit/Cell #: M101Date: 11/17/17TO: (Select only one of the following; selecting more than ONE box will result in your communication being filed unanswered.)

- |  |  |  |   |                                 |
|--|--|--|---|---------------------------------|
| <input type="checkbox"/> Booking/Mail/Property | <input type="checkbox"/> Custody       | <input type="checkbox"/> Inmate Accounts   | <input checked="" type="checkbox"/> Medical   | <input type="checkbox"/> Warden |
| <input type="checkbox"/> Chapel                | <input type="checkbox"/> Deputy Warden | <input type="checkbox"/> Inmate Telephones | <input type="checkbox"/> SOG Commander        | <input type="checkbox"/> Other  |
| <input type="checkbox"/> Commissary            | <input type="checkbox"/> Education     | <input type="checkbox"/> Kitchen           | <input checked="" type="checkbox"/> Treatment |                                 |

Write legibly, supply all relevant details. Forms which are unclear or contain demeaning language, threats or profanity will not be addressed. **ONLY ONE TOPIC PER COMMUNICATION.**

Was told by Mental Health that I must sign up through treatment for counseling or to see a psychologist.

Note: Writing in "response" section will result in form being unanswered and filed.

Inmate Signature: David Roth

RESPONSE:

I will refer the request to Treatment department as he is not answering 11/17/17 S. Smith  
Added to waiting list

Date: 11/19/17 Staff Member (Print): J. Collinsand (Sign): [Signature]

CC:



# EXHIBIT 7

Contents: Case notes, rights of prisoners, cases against Prisoner Care Med.  
(all pertaining to my case) (negligence towards patients)

Lexis Advance®

marked by blue pen are  
done by David R. Roth and show points  
that have to do with my case.  
- David R. Roth 7/28/18

Document:Garcia v. Primecare Med., Inc., 2012 U.S. Dist. LEXIS 12...

◆ **Garcia v. Primecare Med., Inc., 2012 U.S. Dist. LEXIS  
122064**

United States District Court for the Eastern District of Pennsylvania

August 27, 2012, Decided; August 28, 2012, Filed

CIVIL ACTION NO. 08-3589

**Reporter****2012 U.S. Dist. LEXIS 122064 \* | 2012 WL 3704800**

ANGEL LUIS GARCIA, Plaintiff, v. PRIMECARE MEDICAL, INC., et al., Defendants.

**Core Terms**

inmate, sutures, Prison, grievance, sick call, removal, corrections officer, summary judgment, appointment, exhaust, staff, medical care, patient's, administrative remedy, interacted, headaches, provider, deliberate indifference, medical treatment, reasonable jury, instructions, deposition, follow-up, personnel, missed, summary judgment motion, administrative process, serious medical needs, constitutional right, deliberately

**Counsel:** [\*1] For ANGEL LUIS GARCIA, Plaintiff: MICHAEL S. DOLUISIO, LEAD ATTORNEY, DECHERT, PRICE & RHOADS, PHILA, PA; SABRINA L. RELIFORD, LEAD ATTORNEY, ALEXANDER BILUS, WAYNE POLLOCK, DECHERT LLP, PHILADELPHIA, PA.

For PRIMECARE MEDICAL, INC., Defendant: JOHN R. NINOSKY, LEAD ATTORNEY, JOHNSON DUFFIE STEWART & WEIDNER, LEMOYNE, PA; THOMAS E. BRENNER, GOLDBERG, KATZMAN P.C., HARRISBURG, PA.

For MICHAEL R. BUFFINGTON, BERKS COUNTY PRISON CORRECTIONAL OFFICER, MIGUEL A. CASTRO, BERKS COUNTY PRISON CORECTIONAL OFFICER, SETH A. JEFFERSON, BERKS COUNTY PRISON CORRECTIONAL OFFICER, RYAN C. KERN, BERKS COUNTY PRISON CORRECTIONAL OFFICER, LARRY V. SCHELL, BERKS COUNTY PRISON CORRECTIONAL OFFICER, Defendants: MARK ALAN RAITH, HOLSTEN & ASSOCIATES, MEDIA, PA.

**Judges:** GENE E.K. PRATTER, UNITED STATES DISTRICT JUDGE.

**Opinion by:** GENE E.K. PRATTER

## Opinion

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### MEMORANDUM

**GENE E.K. PRATTER, J.,**

#### **I. INTRODUCTION**

Litigation often prompts the saying that "justice delayed is justice denied." This case, however, concerns delayed medical care for an inmate in the county prison facility and the question of who may be responsible for subsequent claims.

Plaintiff Angel Luis Garcia brings this action against Defendants Berks County Prison Correctional Officers [\*2] Michael R. Buffington, Miguel A. Castro, Seth A. Jefferson, Ryan C. Kern, and Larry V. Schell (collectively, the "Berks Officers"), and PrimeCare Medical, Inc. ("PrimeCare"), PrimeCare Medical, Inc. Healthcare Providers John Does 1-10, [1] and John Doe, Berks County Prison PrimeCare Medical Supervisor Administrator. Mr. Garcia asserts a claim under 42 U.S.C. § 1983 against all of the defendants for their allegedly deliberately indifferent refusal or failure to provide him with adequate medical care in violation of his Fourteenth Amendment Due Process rights. He also asserts a variety of state law negligence claims against PrimeCare.

The Berks Officers and PrimeCare filed separate motions for summary judgment. For the reasons that follow, the Court grants the Berks Officers' motion, and denies PrimeCare's motion.

#### **II. FACTUAL BACKGROUND**

##### **A. Mr. Garcia's Head Injury, Treatment, and Suture Removal**

In the early morning hours of August 6, 2006, a crowd gathered at the site of a disturbance near 8th and Walnut Streets in Reading, Pennsylvania. *See* Pl.'s Counterstatement of Material Facts in Resp. to Def. Berks S.J. Mot. ("PCMF-B") ¶ 1. Amid the commotion, a man named Cletus Rivera (who is not a party to this lawsuit) shot and killed Reading Police Officer Scott [\*4] Wertz, the officer who responded to the initial disturbance. *See id.* ¶ 2. After Officer

Wertz was shot, various members of the Reading Police Department attempted to disperse the crowd. See id. ¶ 3. While attempting to control the crowd, the police officers arrested Mr. Garcia. See id. ¶ 4. In an effort to subdue Mr. Garcia and effectuate his arrest, one of the officers cut Mr. Garcia on the back of his head after striking him with a flashlight. See id. ¶ 5; Garcia Dep. 36-37. The police took Mr. Garcia to Reading Hospital, where doctors treated his head wound with sutures. See PCMF-B ¶¶ 6-8.

(The treating physicians at Reading Hospital issued written instructions that Mr. Garcia would need to have his sutures removed within 10 days, i.e., by August 16, 2006. See PCMF-B ¶¶ 10-11, Exs. D, E, I. Reading Hospital also completed an "injured or sick prisoner report," including the same instruction for suture removal. See id. [2]. Upon Mr. Garcia's arrival at Berks County Prison on the morning of August 6, 2006, Reading Hospital's instructions for suture removal were received by both Berks County Prison and PrimeCare. See id. ¶ 12. The instructions were then incorporated into Mr. Garcia's medical [\*5] records and prison file. See id.

- same thing happened to me. My surgeon gave instructions that no one try to catch me but me.

Despite these instructions, the sutures remained in Mr. Garcia's head four more months, until December 5, 2006, when a PrimeCare certified physician's assistant named Jesse Kirsch removed them. See id. ¶ 22. (Due to the delay in removing the sutures, Mr. Garcia alleges that he has suffered headaches and an infection, [3], and that he was left with an approximately one-half inch area of exacerbated scarring around the sutures site.) See id. ¶¶ 24-25; Garcia Dep. 95, 97-98, 101-02, 105, 131-33, 152-53.

Due to not listening to my surgeon's orders I now need another surgery, have PTSD, multiple UTIs, pain and suffering

#### B. The Berks Officers' Treatment of Mr. Garcia

Generally, in the Berks County penal facility, all inmate medical concerns must be submitted to PrimeCare on a written sick call form. See Castro Dep. 29-30. Although inmates can seek medical attention through a variety of ways, sick call forms are the primary means through which inmates schedule medical appointments with PrimeCare. See id.

Berks County Prison Correctional Officer Miguel Castro testified that throughout Mr. Garcia's various cell assignments, sick call forms were located at the officer's station. See id. To retrieve a sick call form from the officer's station, an inmate must request the form from the Correctional Officers on duty. See id. After completing a sick call form, the inmate must either request that a Correctional Officer collect the form or place the form in a collection bin during recreation when inmates are allowed outside of their cells. See id. Outside of the sick call procedure, [\*7] Officer Castro testified that Correctional Officers are not required to report medical complaints to PrimeCare, with the exception of "medical emergenc[ies]." See id.

Five of the Berks Officers testified at their depositions that they could recall nothing about Mr. Garcia or his verbal requests for medical attention, with only one officer remembering having seen Mr. Garcia in the medical quarantine unit upon his arrival. Def. Berks Mem. of Law in Supp. of S.J. Mot. at 10. [4] Mr. Garcia alone testified to the following conduct in support of his claim that Berks denied him access to medical care: [5]

- Mr. Garcia testified that Correctional Officer Buffington interacted with him while he was in the holding area prior to entering the general prison population: "[I] kept asking [Buffington] to call the nurse." See PCMF-B ¶ 16; Garcia Dep. 93. Officer Buffington allegedly responded that "he'll get to it." Id. Mr. Garcia testified that a nurse never arrived. See id.
- Mr. Garcia testified that Lieutenant Castro also interacted with Mr. Garcia while he was in the holding area: "[I] actually complained to [Lieutenant Castro] more than six times." See PCMF-B ¶ 17; Garcia Dep. 92-93. Lieutenant Castro [\*8] allegedly responded that "[he's] got nothing to do with that." See id.
- Mr. Garcia testified that Correctional Officer Hitchens interacted with him when he was in the holding area: "[I] said to [Hitchens] that I need medical attention . . . I told [Hitchens] that I have headaches." See PCMF-B ¶ 18; Garcia Dep. at 95-97. Officer Hitchens allegedly responded by saying "the nurse is out." Id. At his deposition, Mr. Garcia stated that he "guess[ed] Hitchens] got agitated after I kept

asking him to call the nurse for my head injury because it was starting to hurt. I was getting headaches. He came up and yelled at me, told me to shut the [expletive] up . . . I kept yelling for a lieutenant . . . ." See id.

- Mr. Garcia testified that Correctional Officer Jefferson interacted with him while he was in the protective custody area: "[J]efferson came, and they cell-searched my cell . . . I went asking him to help me . . . [and he] didn't say nothing. He just stood there like I wasn't even there." See PCMF-B ¶ 19; Garcia Dep. 97-99.

- Mr. Garcia testified that Correctional Officer Kern interacted with him after he received his stitches: "[I] went asking him for medical help" on two separate occasions, [\*9] and "showed him my stitches." See PCMF-B ¶ 20; Garcia Dep. 100-03. Mr. Garcia testified that Officer Kern replied he would call a nurse, but no nurse ever came. See PCMF-B ¶ 20; Garcia Dep. 101-103. Mr. Garcia also alleges that Officer Kern is a "racist" who wore a shirt which stated "Fry Cletus." [6] Garcia Dep. 102-03.

- Mr. Garcia testified that Correctional Officer Schell interacted with him after he received his stitches: when opening the cell doors for dinner, Mr. Garcia "went straight to pill line to talk to the nurse about [his] injuries." See PCMF-B ¶ 21; Garcia Dep. 103-05. He stated, "[A]s I went to show [the nurse] my stitches, Schell jumped out of his seat and started screaming at me . . . ." Id.

In the event that a prisoner believes that his medical treatment was inadequate, or objects to an aspect of his imprisonment, the Berks County Prison Inmate Handbook lays out a multi-tier system whereby the inmate may seek formal review of his complaint. This handbook is provided to every inmate upon his arrival. The written policy indicates that, "most routine housing [\*11] unit and treatment matters or questions can be handled by speaking with the housing unit officer or treatment staff." Pl. Ex. M at 31. An inmate can also "submit a written request (using an Inmate Communication Form) to staff other than those assigned to work directly in your housing unit. A "Request Box" is provided for this purpose on each housing unit." Id. In the event that "a significant complaint has not been resolved by this process," an inmate may file a grievance. Id. Grievance forms may be requested from housing unit officers. Id. at 32. Multiple Berks Officers, however, testified that a complaint is equally valid if voiced via an inmate communication form as a grievance form. See Castro Dep. 41-42; Hitchens Dep. 34-36, 79-80.

Mr. Garcia testified that Officers Schell, Kern, and Cooper denied him access to grievance forms, see PCMF-B ¶ 29, that the Berks Officers deliberately denied or ignored his "cries of asking for medical attention" regarding suture removal, and "never" gave him a "sick call form" when he asked for one. See PCMF-B at ¶ 28; Garcia Dep. 110-13. However, his medical and prisoner history reflect that between August 6, 2006, and December 5, 2006, Mr. Garcia [\*12] submitted three sick call forms to PrimeCare as well as fifteen inmate grievance and communication forms to the Berks County Prison, none of which included a complaint regarding sutures, his head, or inadequate medical care. See PCMF-B Resp. ¶¶ 37-38, 56-57; see also Berks Ex. N.

### C. PrimeCare's Treatment of Mr. Garcia

PrimeCare Medical, Inc. is a privately-owned corporation that contracts with correctional facilities to provide medical services to their inmates. See Pl.'s Counterstatement of Material Facts in Resp. to PrimeCare's S.J. Mot. ("PCMF-P") ¶ 1, Shelton Dep. 22-23. Upon Mr. Garcia's arrival at the Berks County Prison on August 6, 2006, PrimeCare staff evaluated the discharge instructions and the injured or sick prisoner report prepared by Reading Hospital and included them in Mr. Garcia's medical charts. See id. ¶ 26. Mr. Kirsch examined Mr. Garcia on August 8, 2006, noted the sutures on Mr. Garcia's head, and entered a medical order for their removal on August 11, 2006. [7] See id. ¶¶ 27-32. He also ordered the dressings on Mr. Garcia's head to be changed daily for five days. Id. Both Doctors Deborah Wilson and Erik Von Kiel (PrimeCare physicians) reviewed and approved of Mr. [\*13] Kirsch's examination form. See id.

It is undisputed that the August 11 follow-up appointment did not occur. However, the reason for the missed appointment is less clear. PrimeCare admits that in 2006, it lacked a specific

protocol for creating, managing, and communicating medical orders such as Mr. Kirsch's order for suture removal on August 11, 2006. See PCMF-P ¶¶ 67-70. Instead, PrimeCare personnel testified that nurses would transfer orders to a "provider list" or calendar in an ad hoc manner. Dr. Von Kiel, the Medical Director of PrimeCare at Berks County Prison, testified that if an inmate missed an appointment he (Dr. Von Kiel) would normally inquire as to why the appointment was missed. See Von Kiel Dep. 185. However, both Mr. Kirsch and Dr. Wilson testified that they could not recall any investigations [\*14] or inquiries regarding why Mr. Garcia's appointment did not occur on August 11. Kirsch Dep. 182-183; Wilson Dep. 89.

PrimeCare personnel saw Mr. Garcia multiple times for a variety of unrelated medical conditions during the relevant period including on August 8, 2006, August 9, 2006, September 20, 2006, October 11, 2006, November 13, 2006, and December 5, 2006. PrimeCare Ex. B. Likewise, while Mr. Garcia was relegated to segregated housing, Mr. Garcia was seen by PrimeCare staff on at least thirty-one (31) separate occasions during segregation rounds. [8] PrimeCare Ex. F. Mr. Garcia testified that he informed or attempted to inform PrimeCare doctors about his latent sutures on multiple occasions. See Garcia Dep. 130. On one such occasion, Mr. Garcia testified that the doctor "kicked [him] out" of his office. [9]

Many doctors employed by PrimeCare at Berks County Prison testified that it is important to remove sutures on time, and that Mr. Garcia's sutures should have been removed prior to December 5, 2006. PCMF-P ¶¶ 45-52.

*RU Sam told me that she spoke to a provider and they said that my drawings were not needed. But they never looked at my sight to see the pus and urine leaking from sight. So I filed sick call and grievance.*

#### D. Procedural History

Mr. Garcia filed a *pro se* complaint in Civil Action No. 07-2066 on November 19, 2007. Upon the appointment of counsel, Mr. Garcia withdrew his *pro se* complaint, and filed the present action on July 31, 2008 naming, among others, Berks County Prison. See Docket. No. 1 in C.A. No. 08-3589. On November 14, 2008, Mr. Garcia agreed to dismiss Berks County Prison in return for a copy of his inmate record and a list of correctional officers employed during the period of his incarceration from August 2006 to July 2007. See Docket. Nos. 7, 12.

Shortly thereafter, on January 30, 2009, Mr. Garcia filed a First Amended Complaint naming seven (7) Correctional Officers in Berks and PrimeCare, and omitting Berks County Prison. See Docket. No. 21. Correctional Officer James [\*16] H. Cooper died before the filing of the First Amended Complaint. The Court dismissed Officer Cooper as a defendant by Stipulation and Order on May 28, 2009. See Docket No. 37. Then, one week before oral argument, Officer Stephen A. Hitchens was dismissed without prejudice by Stipulation and Order. See Docket No. 58. Five named Berks Officers remain as defendants in this case.

### III. LEGAL STANDARD

Upon motion of a party, summary judgment is appropriate if, "citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations, . . . admissions, interrogatory answers, or other materials," the moving party persuades the district court that "there exists no genuine issue of material fact that would permit a reasonable jury to find for the nonmoving party." FED. R. Civ. P. 56(c); Miller v. Ind. Hosp., 843 F.2d 139, 143 (3d Cir. 1988). An issue is "genuine" if a reasonable jury could possibly hold in the non-movant's favor with regard to that issue. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 106 S. Ct. 2505, 91 L. Ed. 2d 202 (1986). A fact is "material" only if its resolution could affect the result of the suit under governing [\*17] law. Id.

In evaluating a summary judgment motion, the court "must view the facts in the light most favorable to the non-moving party," and make every reasonable inference in that party's favor. Hugh v. Butler Cty. Family YMCA, 418 F.3d 265, 267 (3d Cir. 2005). If, after making all reasonable inferences in favor of the non-moving party, the court determines that there is no



genuine issue of material fact, summary judgment is appropriate. Celotex Corp. v. Catrett, 477 U.S. 317, 322, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986); Wisniewski v. Johns-Manville Corp., 812 F.2d 81, 83 (3d Cir. 1987).

The party opposing summary judgment must support each essential element of that party's opposition by "citing to particular parts of materials in the record." FED. R. CIV. P. 56(c)(1). "The Court need consider only the cited materials" when determining whether there exists a genuine issue of material fact for trial. FED. R. CIV. P. 56(c)(3). If the cited evidence is "merely colorable, or is not significantly probative, summary judgment may be granted." Anderson, 477 U.S. at 249-50 (citations omitted). This requirement upholds the "underlying purpose of summary judgment [which] is to avoid a pointless trial in cases where it is unnecessary [\*18] and would only cause delay and expense." Walden v. Saint Gobain Corp., 323 F. Supp. 2d 637, 641 (E.D. Pa. 2004) (citing Goodman v. Mead Johnson & Co., 534 F.2d 566, 573 (3d Cir. 1976)).

#### IV. DISCUSSION

Mr. Garcia brings his federal claim in Count I under 42 U.S.C. § 1983 for alleged violations of his Fourteenth Amendment right to adequate medical care against both the Berks Officers and PrimeCare. Although PrimeCare is also named in Mr. Garcia's various claims alleging state law negligence, medical malpractice, and vicarious liability in Counts II through VI, the parties' Motions for Summary Judgment focus almost entirely on Mr. Garcia's federal claim. Both the Berks Officers and PrimeCare argue that they did not act with deliberate indifference toward Mr. Garcia's serious medical needs. In addition, the Berks Officers contend that Mr. Garcia failed to exhaust his administrative remedies as against them before bringing his Section 1983 lawsuit. The Court will address each party's contentions in turn.

##### A. The Berks Officers

*done* The Prison Litigation Reform Act ("PLRA") mandates that an inmate must exhaust a prison facility's administrative remedies before bringing a suit concerning prison conditions [\*19] pursuant to Section 1983. See 42 U.S.C. § 1997e(a). "To properly exhaust administrative remedies, an inmate must appeal a grievance through all administrative levels of appeal at the inmate's institution." Miller v. DiGuglielmo, No. 07-2686, 2010 U.S. Dist. LEXIS 127096, 2010 WL 4909589, at \*10 n.7 (E.D. Pa. Nov. 30, 2010) (quotation omitted). "Failure to exhaust is an affirmative defense to be pled and proven by the defendant." Harper v. Albo, No. 10-7555, 2011 U.S. Dist. LEXIS 95651, 2011 WL 3740815, at \*5 (E.D. Pa. Aug. 24, 2011) (citing Ray v. Kertes, 285 F.3d 287, 291 (3d Cir. 2002)). **10**

The Berks Officers argue that Mr. Garcia did not exhaust his administrative remedies pursuant to the Prison Litigation Reform Act ("PLRA") before filing suit, and that, therefore, the Court should grant summary judgment in their favor. Mr. Garcia concedes that he did not exhaust the Berks County Prison's administrative process by filing an inmate grievance form, or even a sick call or inmate communication form complaining about the sutures in his head or his lack of treatment for them. However, Mr. Garcia contends that the Court [\*20] must excuse his failure to exhaust because the Berks Officers denied him access to these forms, rendering the prison's administrative process unavailable to him. *What MOLF did to me*

"The PLRA does not require exhaustion of all remedies . . . [R]ather, it requires exhaustion of such administrative remedies 'as are available.'" Brown v. Croak, 312 F.3d 109, 110 (3d Cir. 2002) (citing 42 U.S.C. § 1997e(a)). "'Available' means 'capable of use; at hand.'" Id. at 113. When prison officials thwart an inmate's attempts to utilize his administrative remedies, those remedies are "unavailable" for exhaustion purposes. See id.; see also Mitchell v. Horn, 318 F.3d 523, 529 (3d Cir. 2003) (noting that a denial of access to grievance forms can render the administrative remedies unavailable). The availability of administrative remedies to a prisoner is a question of law for the Court to decide. Daniels v. Rosenberger, 386 F. App'x 27, 29 (3d Cir. 2010) (citing Kertes, 285 F.3d at 291).

Here, the record simply does not support Mr. Garcia's assertion that the administrative process was "unavailable" to him during the relevant period. Mr. Garcia raises two primary arguments to support his claim that the Berks Officers rendered [\*21] administrative remedies unavailable, relying solely on his own self-serving deposition testimony in the face of overwhelming evidence to the contrary. [11] First, Mr. Garcia testified, in conclusory fashion, that he asked Officers Schell, Kern, and Cooper for inmate grievance forms "all the time" to address his inadequate medical care, but his requests were denied. Garcia Dep. 164:8-25. This one generalized snippet of deposition testimony, combined with the fact that he did not file an inmate grievance form during the relevant time period, is the only "evidence" supporting his claim that he was denied access to the inmate grievance process.

The record is clear, however, that inmate grievance forms are not the exclusive way for inmates to complain about prison treatment, and that a prisoner may use either an inmate grievance form or an inmate communication form to file [\*22] a grievance. Section 9.1 of the Berks County Prison Inmate Handbook provides that inmates "may submit a written request (using an Inmate Communication Form) to staff other than those assigned to work directly in your housing unit," and if the inmate feels a significant complaint has not been resolved by this process, he may file a grievance. Pl. Ex. M at 31. Thus, the filing of an inmate communication form is an available, though not required, first step toward resolving an inmate's complaint.

Additionally, the Officers testified that a grievance is equally valid if made via an inmate communication form as if it had been made with a grievance form. See Castro Dep. 41-42 ("What they do is take the regular communication form and write the word 'grievance' at the top, and then it becomes a valid — it becomes a valid form for using as a grievance as well."); Hitchens Dep. 34-36 ("Even if there is no grievance forms, the inmate just takes an inmate communication and states a complaint, and it it's valid, they investigate it. I am not aware of a complaint being filed on an improper form would strike out as grievance on that type of technicality, they are just processed."); 79-80 ("[I]f they [\*23] want to [file a grievance] they just — they file it on the slip, on the form, one form or another. I mean, if they handed in a piece of paper, to my knowledge, and state a valid grievance, that's processed. If they put it on a communication form, that's valid and it goes through the process."). [12] During the relevant time frame, Mr. Garcia filed fourteen (14) separate inmate communication or discipline appeal forms detailing various complaints such as problems with other inmates, disagreements with correctional officers, religious classification concerns, and requests to have people added to his visitors' list. [13] See Def. Ex. N. However, on none of these forms did Mr. Garcia complain about the failure to remove his sutures or anything of that sort.

Finally, Mr. Garcia also argues that pursuant to Section 9.3.6 of the Inmate Handbook, prisoners are restricted to addressing only one single incident per grievance form, and thus he could not add a complaint about the sutures when lodging his grievance about exercise yard access. PCMF-B ¶ 31. Mr. Garcia filed his one inmate grievance form on August 14, 2012 before the ten-day period for removal of his sutures had expired, and consequently, he had no reason to complain about his medical care at that time. All of his inmate communication forms, on the other hand, were filed after the ten-day period had ended. Given the volume of inmate communication forms he filed, no reasonable jury could conclude that the restriction of one incident per form in any way deprived Mr. Garcia to access to the administrative process. [14]

Exhaustion is a question of law to be decided by the Court. See *Rosenberger*, 386 F. App'x at 29. Here, although Mr. Garcia testified in general terms that three Berks Officers denied him access to the administrative process, all of the other evidence in the record suggests otherwise. Other than Mr. Garcia's conclusory and self-serving deposition testimony, he has failed to provide any evidence from which a reasonable jury could conclude that the Berks Officers obstructed his ability to utilize the prison's administrative process related to his allegedly inadequate medical care. Because the Court cannot conclude that the administrative process was unavailable to Mr. Garcia, it declines to reach the merits of his Section 1983 claim against the Berks Officers, and grants summary judgment in favor of the Berks Officers.

**B. PrimeCare, Inc.**

PrimeCare argues that Mr. [\*27] Garcia fails to specify evidence that raises a genuine issue of material fact for trial on his Section 1983 claim. (To survive summary judgment on a claim under 42 U.S.C. § 1983, "a plaintiff must show that the defendant, acting under color of state law, deprived [the plaintiff] of a right secured by the Constitution or laws of the United States.") — violated and deprived of right  
 Hojnowski v. Primecare Medical, No. 06-1228, 2009 U.S. Dist. LEXIS 37016, 2009 WL 1175611, at \*4 (E.D. Pa. Apr. 30, 2009) (citing Kaucher v. County of Bucks, 455 F.3d 418, 423 (3d Cir. 2006)). [15] When evaluating a § 1983 claim, the Court must first "identify the exact contours of the underlying right said to have been violated" so as to determine if Mr. Garcia has set forth evidence establishing a deprivation of a constitutional right at all. See Natale v. Camden Cty. Corr. Facility, 318 F.3d 575, 581 (3d Cir. 2003). If the plaintiff establishes an underlying violation of his rights, the Court then must determine whether the state actor, in this case PrimeCare, can be held liable for that violation. See Berg v. County of Allegheny, 219 F.3d 261, 275 (3d Cir. 2000).

### 1. Violation of Mr. Garcia's constitutional rights

PrimeCare contends that Mr. Garcia fails to raise a genuine issue of material fact as to whether its medical employees were deliberately indifferent to Mr. Garcia's medical needs such that they violated his constitutional right to adequate medical treatment. A § 1983 claim based on the failure to provide adequate medical treatment generally arises under the Eighth Amendment and occurs when prison officials exhibit (1) deliberate indifference (2) to a prisoner's serious medical needs. Estelle v. Gamble, 429 U.S. 97, 104, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976). However, at the time of the events in question, Mr. Garcia was a pretrial detainee. Unlike with convicted prisoners, the constitutional standard governing a prison's treatment of a pretrial detainee is governed by the Due Process clause of the Fourteenth Amendment. [16] Hubbard v. Taylor, 399 F.3d 150, 165-66 (3d Cir. 2005); see City of Revere v. Massachusetts Gen. Hosp., 463 U.S. 239, 244, 103 S. Ct. 2979, 77 L. Ed. 2d 605 (1983) ("Because there had been no formal adjudication of guilt [\*29] . . . at the time he required medical care, the Eighth Amendment has no application.").

Although neither the Supreme Court nor the Third Circuit Court of Appeals have yet to define the exact contours of either a state or federal pretrial detainee's Due Process right to medical treatment, it has been established that "the Eighth Amendment informs, but does not control, the analysis as to pretrial detainees[']' claims related to deficient medical treatment. Morgan-Mapp, 2008 U.S. Dist. LEXIS 69434, 2008 WL 4211699, at \*13 (citing Hubbard, 399 F.3d at 166; Kost v. Kozakiewicz, 1 F.3d 176, 188 n.10 (3d Cir.1993)); see also Bell v. Wolfish, 441 U.S. 520, 99 S. Ct. 1861, 60 L. Ed. 2d 447 (1979). In other words, the Eighth Amendment standard sets a "floor," below which the medical treatment of pretrial detainees may not fall. Hubbard, 399 F.3d at 165-66.

"Under the Eighth Amendment, [\*30] deliberate indifference to a serious medical need is a subjective standard, requiring a defendant to have *actual knowledge* of [a convicted] inmate's serious medical needs." Morgan-Mapp, 2008 U.S. Dist. LEXIS 69434, 2008 WL 4211699, at \*13 (citing Farmer v. Brennan, 511 U.S. 825, 837, 114 S. Ct. 1970, 128 L. Ed. 2d 811 (1994)) (emphasis added). However, "deliberate indifference to a *pretrial detainee's* right to receive care" under Due Process is a somewhat lower standard, "similar to recklessness." Hojnowski, 2009 U.S. Dist. LEXIS 37016, 2009 WL 1175611, at \*4 (emphasis added). Under either version of deliberate indifference, "mere negligence or inadvertence in failing to provide adequate medical care" will not support a § 1983 claim. Id. Deliberate indifference has been found where there was objective evidence that [a] plaintiff had serious need for medical care, and prison officials ignored that evidence. see Nicini v. Morra, 212 F.3d 798, 815 n.14 (3d Cir. 2000), and where "necessary medical treatment is delayed for non-medical reasons." Monmouth County Corr. Inst. Inmates v. Lanzaro, 834 F.2d 326, 347 (3d Cir. 1987).

Sufficient evidence exists in the record here to create a genuine issue of material fact as to whether PrimeCare employees were deliberately indifferent to [\*31] Mr. Garcia's serious medical needs. [17] In conjunction with his discharge from Reading Hospital following his arrest, the hospital issued written instructions that Mr. Garcia's sutures should be removed no later than August 16, 2006, or ten days from the date of his discharge. See PCMF-B ¶¶ 7, 10-11, Exs. D, E, I. Upon Mr. Garcia's arrival at the Berks County Prison on August 6, 2006,

PrimeCare staff evaluated the discharge instructions and Reading Hospital's written instructions and included them in Mr. Garcia's medical charts. See PCMF-P ¶ 26. Mr. Kirsch examined and evaluated Mr. Garcia two days later. See id. ¶¶ 27-32. During his examination, Mr. Kirsch made note of Mr. Garcia's sutures in his medical charts and entered a medical order for their removal on August 11, 2006. Id. Both Drs. Wilson and Von Kiel reviewed and approved of Mr. Kirsch's examination. See id.

To ensure that the order for suture removal would be carried out, PrimeCare personnel testified that it should have been entered on a facility-wide calendar or "provider [\*32] line" for August 11, 2006. Shelton Dep. 48-50, 54; Kirsch Dep. 67-68. However, it is undisputed that Mr. Kirsch's order for suture removal was never entered on the "provider line" for August 11, 2006, his follow up appointment was never scheduled, and the August 11 follow-up appointment did not occur. See PCMF-P ¶¶ 37-38. The sutures were not removed until December 5, 2006, almost four months after they were supposed to be removed. Id. at 38-39.

Mr. Garcia testified that he wore the same dressings continuously for this same period. [18] Garcia Dep. 158:8-19. Likewise, between August 11 and December 5, 2006, PrimeCare staff saw Mr. Garcia on multiple occasions for numerous unrelated medical issues. [19] Id. at 40. A reasonable jury could infer that the PrimeCare personnel who saw Mr. Garcia were acting deliberately indifferent to Mr. Garcia by failing to inquire about his bandages. Although PrimeCare points to Mr. Garcia's other medical appointments as evidence that it was not deliberately indifferent to his medical needs, that PrimeCare saw Mr. Garcia on so many occasions with his head dressings, presumably looked at his medical chart containing the order for removal of his sutures each [\*33] time, and treated everything *other than* his sutures, a reasonable jury could find that PrimeCare personnel acted with deliberate indifference toward Mr. Garcia's medical needs.

Moreover, Mr. Kirsch testified that prisoners are not responsible for ensuring that they receive follow-up care [\*34] that has been ordered for them and they are not told for what date the treatment has been ordered. Id. at 42, Ex. B. Nevertheless, Mr. Garcia testified that, on at least one occasion, he requested that a PrimeCare doctor remove his sutures and the doctor directly rebuffed his request and "kicked [him] out" of his office. Id. at 42.

PrimeCare has not presented any evidence establishing that its failure to attend to Mr. Garcia was pursuant to its medical judgment. In fact, numerous PrimeCare employees have testified that sutures of the kind that were implanted in Mr. Garcia's head should not remain in place for as long as they did, and the failure to timely remove sutures risked infection and exacerbated scarring. Id. at 46-52. *Failure to clean and dress properly resulted in infections*

Mr. Garcia has provided sufficient evidence to survive a motion for summary judgment on the question of whether PrimeCare employees violated Mr. Garcia's Fourteenth Amendment right to adequate medical care while in state custody.

## 2. Liability of PrimeCare for violation of Mr. Garcia's constitutional right

While issues of material fact exist as to whether PrimeCare employees violated Mr. Garcia's constitutional rights, pursuant to Monell v. Dep't of Social Servs., 436 U.S. 658, 98 S. Ct. 2018, 56 L. Ed. 2d 611 (1978), [\*35] private medical contractors like PrimeCare cannot be held liable under § 1983 for the actions of their employees under the theory of respondeat superior. See Afdahl v. Cancellieri, 463 F. App'x 104, 109 (3d Cir. 2012) (noting that as it pertains to prison healthcare contractors, "liability under § 1983 cannot be based solely upon the doctrine of respondeat superior") (citing Natale, 318 F.3d at 583); see also Reichart v. Prison Health Servs., SCI-Camp Hill, No. 11-1992, 2012 U.S. Dist. LEXIS 88204, 2012 WL 2411838, at \*4 (M.D. Pa. June 26, 2012) (same). Instead, to survive a motion for summary judgment, Mr. Garcia must demonstrate that PrimeCare had an established policy, practice, or custom that caused the alleged constitutional violation at issue. See Natale, 318 F.3d at 583-84.

A policy exists where "a decisionmaker possess[ing] final authority to establish municipal policy with respect to the action issues a final proclamation, policy or edict," Kneipp v. Tedder, 95 F.3d 1199, 1212 (3d Cir. 1996) (citation omitted), whereas a custom is an act "that has not been formally approved by an appropriate decisionmaker," but that is "so widespread as to have the



force of law." Bd. of Cty. Comm'rs. of Bryan Cty. v. Brown, 520 U.S. 397, 404, 117 S. Ct. 1382, 137 L. Ed. 2d 626 (1997). **[\*36]** A policy or custom may exist where "the policymaker has failed to act affirmatively at all, though the need to take some action . . . is so obvious, and the inadequacy of existing practice so likely to result in the violation of constitutional rights, that the policymaker can reasonably be said to have been deliberately indifferent to the need." Natale, 318 F.3d at 584.

Here, Mr. Garcia has presented no evidence that PrimeCare had an affirmative policy or custom that caused the constitutional violation here. Rather, he asserts that PrimeCare ignored an obviously inadequate practice and failed to implement appropriate procedures that likely would have prevented the violation in the first instance.

It is undisputed that in 2006, PrimeCare did not have a formal policy, procedure, or protocol for creating, managing, communicating and carrying out medical orders such as Mr. Kirsch's suture removal order for Mr. Garcia. See PCMF-P ¶¶ 67-70. PrimeCare personnel testified that they ensure such orders are processed by having nurses transfer orders to the "provider list" or calendar whenever the doctors apply a "tag" to the appropriate page of the patient's chart. PCMF-P ¶ 69; Shelton Dep. 51-52. **[\*37]** However, in response to an interrogatory, PrimeCare directly contradicted this testimony by noting, "[A]s a general rule, the only 'tabs' placed in inmate files are to separate types of information not to designate individual pages." Pl. Ex. E, Response 3.

Equally absent from the record is any indication that PrimeCare had an adequate procedure for flagging and redressing missed administrations of medical treatment. Mr. Kirsch testified that PrimeCare patients are not responsible for ensuring that they receive the follow-up care that has been ordered for them. PCMF-P ¶ 43. Indeed, patients are not told when their follow-up treatment will occur. Id. Dr. Von Kiel testified that, as PrimeCare's medical director, if a patient's follow-up appointment was missed, he would normally inquire as to why it was missed. Id. ¶ 82. However, neither Dr. Von Kiel, nor Dr. Wilson, nor Mr. Kirsch could recall investigating the reason why Mr. Garcia's appointment was missed. Id. ¶¶ 80-87. This is hardly surprising, considering that Mr. Garcia's suture removal appointment was never actually scheduled.

Finally, Mr. Garcia has also presented evidence that PrimeCare management failed to enforce the one method **[\*38]** that was available for tracking whether its patients' problems had been resolved. On the top page of each patient's file, PrimeCare maintains a "Master Problem List," which highlights any outstanding medical problems the patient may have and whether the problems have been resolved. See id. ¶¶ 71-72. Mr. Garcia's "Master Problem List" includes an instruction for suture wound care. Pl. Ex. V. PrimeCare medical staff saw Mr. Garcia on multiple occasions for numerous unrelated medical issues during the relevant period, and each time they opened his file, presumably, they could see this notation on Mr. Garcia's Master Problem List. PCMF-P ¶ 40. However, not one of the PrimeCare staff or treating physicians did anything to remedy the situation.

Moreover, each Master Problem List contained a column entitled "date resolved" which was intended to indicate when and if a particular medical need of a prisoner was resolved. However, Mr. Kirsch testified, "Honestly, I never write that [an issue has been resolved] on the problem list. I know there is section there called day resolved. I have never seen any of our providers write it under there," other than in limited circumstances. Kirsch Dep. 127-128. **[\*39]** The "date resolved" section on Mr. Garcia's Master Problems List was empty. See id. ¶¶ 73-74. Had PrimeCare medical providers followed this possible technique for tracking patient follow-up care, perhaps the absence of any notation under the "date resolved" column would have alerted one of Mr. Garcia's subsequent treating physicians that he had an outstanding medical need.

Viewing the facts in the light most favorable to Mr. Garcia and making every reasonable inference in his favor, a reasonable jury could conclude that the failure to establish any formal policy to ensure that (1) medical orders were processed and executed or that (2) missed appointments were rescheduled, constituted deliberate indifference to a known or obvious risk, i.e., that orders for follow-up care would go unprocessed and unnoticed, and that patients' serious medical needs would go untreated. A reasonable jury could also infer that PrimeCare's failure to establish a more responsive policy, or, even to utilize the "master problems list," caused the specific constitutional violation of which the Mr. Garcia complains. See Bryan County, 520 U.S. at 404 (holding the Plaintiff must establish "a direct causal link between **[\*40]** the municipal action and the deprivation of federal rights").

Accordingly, the Court finds that summary judgment in favor of PrimeCare is not warranted.

20 ↓

## V. CONCLUSION

For the foregoing reasons, the Court grants summary judgment with respect to the Berks Officers, and denies summary judgment with respect to PrimeCare, Inc.

An appropriate Order consistent with this Memorandum follows.

BY THE COURT:

/s/ Gene E.K. Pratter

GENE E.K. PRATTER

UNITED STATES DISTRICT JUDGE

## ORDER

**AND NOW**, this 27th day of August, 2012, upon consideration of the Motion for Summary Judgment filed by Defendants Michael R. Buffington, Miguel A. Castro, Seth A. Jefferson, Ryan C. Kern, and Larry V. Schell (the "Berks Officers") (Doc. No. 39), and all responses thereto, as well as the Motion for Summary Judgment filed by PrimeCare Medical, Inc. [**\*41**] (Doc. No. 43), and all responses thereto, it is hereby **ORDERED** as follows:

1. The Berks Officers Motion (Doc. No. 39) is **GRANTED**.
2. PrimeCare Medical, Inc.'s Motion (Doc. No. 43) is **DENIED**.

BY THE COURT:

/s/ Gene E.K. Pratter

GENE E.K. PRATTER

UNITED STATES DISTRICT JUDGE

## Footnotes

17

The "John Doe" defendants have been on the docket since January 30, 2009, well over three (3) years, without being identified. No one has made an appearance on behalf of the John Doe defendants, and neither of the motions were filed on behalf of John Does. The Court notes that Federal Rule of Civil Procedure 21 provides that "on motion or on its own, the court may at any time, on just terms, add or drop a party." Fed. R. Civ. P. 21. As the Third Circuit Court of Appeals has observed, "[u]se of John Doe defendants is permissible in certain situations until [**\*3**] reasonable discovery permits the true defendants to be identified . . . . [I]f reasonable discovery does not unveil the proper identities, however, the John Doe defendants must be dismissed." Blakeslee v. Clinton Cty., 336 F. App'x 248, 250 (3d Cir. 2009) (citations omitted); see also Scheetz v. Morning Call, Inc., 130 F.R.D. 34, 37 (E.D. Pa.1990) ("Fictitious parties



must eventually be dismissed . . . if discovery yields no identities." ). Although no trial will proceed against "John Doe" defendants, the Court declines to dismiss the John Doe defendants at this time.

**2**

The facts surrounding Mr. Garcia's arrest, receipt of sutures, and projected date of suture removal are uncontested and are identical as to all defendants.

**3**

A dispute of fact exists as to whether Mr. Garcia suffered an infection due to the delayed suture removal. Mr. Garcia's claim of infection is directly contested by the deposition testimony of Mr. Kirsch, who removed Mr. Garcia's sutures on December 5, 2006. Mr. Kirsch testified that he noted the presence of a scar but did not note any signs of infection. See Kirsch Dep. 195-96. In any event, the parties do not dispute Mr. Garcia's claims of headaches, or the existence of a scar, although the Berks Officers **[\*6]** contend Mr. Garcia's headaches predated his injury on August 6, 2006 and that there is no testimony from Mr. Garcia or others that headaches were attributable to the sutures. See Def. Berks Stmt. of Undisputed Facts in Sup. of S.J. Mot. ¶ 25.

**4**

See Buffington Dep. 51-52 (unable to recall Mr. Garcia's injuries or any conversations he had with Mr. Garcia), Schell Dep. 55 (recalling Mr. Garcia had his head bandaged, but not recalling any interactions between Mr. Garcia or with the medical personnel), Jefferson Dep. 58 (unable to recall conversations with Mr. Garcia about medication, but recalling his head was bandaged when he was in quarantine), Kern Dep. 32 (unable to recall any interaction with Mr. Garcia).

**5**

The exact dates **[\*10]** of the alleged interactions between the named Correctional Officers and Mr. Garcia are uncertain.

**6**

"Fry Cletus" is supposedly a reference to Cletus Rivera, who shot and killed Officer Wertz on August 6, 2006. In his initial, *pro se* Complaint, Mr. Garcia specifically alleged that the then unnamed Berks Officers denied him access to medical care because Officer Wertz was a former Correctional Officer in Berks County Prison. See Docket No. 12, Complaint, in Civil Action No. 07-2066, ¶ 49. The relationship between Mr. Garcia and Mr. Rivera was alluded to, as both were suspected members of the same "Hudson Street Crew" gang. In his deposition, Mr. Garcia testified that prison staff and PrimeCare associated the two men, and that this association was the reason Mr. Garcia was denied medical care for his sutures. Garcia Dep. 63-64.

77

At the top of each patient's file, PrimeCare maintains a "Master Problem List," which highlights any medical problems and whether they have been resolved. See id. ¶¶ 71-72. Mr. Kirsch included an instruction on Mr. Garcia's "Master Problem List" to provide suture wound care, which went unnoticed or ignored until December 5, 2006, when he removed Mr. Garcia's sutures. See id. ¶¶ 73-74.

87

Additionally, following the removal of his sutures, PrimeCare personnel saw Mr. Garcia on January 3, 2007, January 5, 2007, January 12, 2007, February 6, 2007, February 13, 2007, and March 23, 2007. PrimeCare Ex. B.

97

Mr. Garcia also testified that his requests for treatment of his headaches went ignored. See Garcia Dep. 58-59, 105, 118-120, 158-161. However, dispensary cards that [\*15] track prisoners' medications reflect that Mr. Garcia was provided with headache medicine (Motrin) on August 7, 8, 9, September 20, October 11, November 13, and December 5 of 2006. See PrimeCare Ex. B.

107

Only the Berks Officers raised failure to exhaust as an affirmative defense in their answer to Mr. Garcia's Amended Complaint.

117

While the Court is not permitted to weigh the evidence presented or make credibility determinations at summary judgment, the Court need only make *reasonable* inferences in favor of the non-moving party and must deny a motion for summary judgment only where *genuine* factual disputes exist. See Butler Cty., 418 F.3d at 267.

127

Also, although Officer Cooper passed away before the Plaintiff had an opportunity to depose him, both Officers Schell and Kern testified that they had very limited recollection of Mr. Garcia, but that whenever an inmate wants to file a grievance, "standard procedure" was to "give him a grievance form and tell [the prisoner] to fill it out," and the Officers "always just give [inmates] the form." Schell Dep. 40:6-10, 50:2-20; Kern Dep. [\*24] 29:13-30:5, 32:3-10.

137

These inmate communication forms were filed on August 22, 2006, August 27, 2006, August 28, 2006, August 30, 2006, August 31, 2006, September 3, 2006, September 12, 2006, September 19, 2006, September 27, 2006, October 3, 2006,

treatment for  
my ongoing UTI  
Symptoms went  
untreated  
Also shows antibiotics  
not working

October 3, 2006, October 18, 2006, November 14, 2006, and December 16, 2006. Berks Ex. N.

**14**

Mr. Garcia also testified that the **[\*25]** Berks Officers ignored his repeated verbal requests to provide him with sick call forms to get medical attention for his sutures. Garcia Dep. 110-111. However, contrary to Mr. Garcia's testimony, the record is clear that Mr. Garcia submitted three (3) sick call forms between August 6, 2006 and December 6, 2006, none of which mentioned the removal of his sutures. Def. Ex. I, 601-03. All three of Mr. Garcia's sick call forms related to a toothache, all of them were filed after August 16, 2006 (when the sutures were supposed to be removed), and two of these forms were filed on the same day, October 3, 2006. That Mr. Garcia filed two sick call forms on the same day, but opted to request medical assistance about the same non-suture-related issue on both of them instead of using one to request assistance with his sutures, suggests that the sick call forms were not as hard to come by as Mr. Garcia submits.

Likewise, Mr. Garcia repeatedly contradicted his own claim that the sick call forms were unavailable to him. On the one hand, he testified that he was repeatedly denied sick call forms by the Berks Officers and that he did not make any sick call requests prior to his first sick call request **[\*26]** on September 9, 2006. Garcia Dep. 110, 114. On the other hand, he testified that the reason he did not mention his sutures in the sick call forms he did file was that PrimeCare "wasn't answering [his] other sick call slips about his headaches." *Id.* at 105. Such inconsistencies and contradictions permeate Mr. Garcia's testimony.

**15**

It is undisputed that PrimeCare acted under color of state law for the purposes of this motion. Thus, the **[\*28]** analysis for Mr. Garcia's § 1983 claim centers on whether PrimeCare violated the constitutional right of Mr. Garcia to receive adequate medical care while in prison.

**16**

The Due Process inquiry for pretrial detainees is whether the treatment "amounted to punishment prior to an adjudication of guilt, or whether [the] treatment was, instead, merely an incident of some other legitimate governmental purpose." *Morgan-Mapp v. George W. Hill Corr. Facility*, No. 07-2949, 2008 U.S. Dist. LEXIS 69434, 2008 WL 4211699, at \*13 (E.D. Pa. Sept. 12, 2008) (citing *Hubbard*, 399 F.3d at 158-59).

**17**

PrimeCare does not dispute for the purposes of this motion that the timely removal of the sutures in Mr. Garcia's head constituted a "serious medical need."

*Mr. Garcia failed to  
give me any sick  
calls when asked  
or questioned  
consequently  
forms by saying  
they didn't have  
any*

*my dressings were never scheduled but should have been*

**18** Despite Mr. Garcia's testimony, both his medical records and the testimony of Mr. Kirsch indicate that his dressings were changed. PrimeCare Ex. Q; Kirsch Dep. 162:12-17. However, there is no evidence in the record that contradicts Mr. Garcia's testimony that he wore at least *some* dressings on his head during this period. Garcia Dep. 78:6-9; 135:10-24.

**19** During the relevant period, PrimeCare saw Mr. Garcia on August 8, 2006, August 9, 2006, September 20, 2006, October 11, 2006, November 13, 2006, and December 5, 2006. PrimeCare Ex. B. Likewise, while Mr. Garcia was relegated to segregated housing, Mr. Garcia was seen by PrimeCare staff on at least 31 separate occasions during segregation rounds. PrimeCare Ex. F. Following the removal of his sutures, PrimeCare saw Mr. Garcia on January 3, 2007, January 5, 2007, January 12, 2007, February 6, 2007, February 13, 2007, and March 23, 2007. PrimeCare Ex. B.

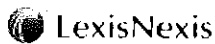
**20** Because the Court denies PrimeCare's motion for summary judgment as to Mr. Garcia's federal claim, and PrimeCare only seeks dismissal of Counts II through VI on the grounds that the Court would lack independent subject matter jurisdiction over the state law claims if it did dismiss the federal claim, the Court denies PrimeCare's motion with respect to Counts II through VI as well.

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- The Third Circuit has found that transfer to another prison facility does not excuse the PLRA exhaustion requirement.
- \* has to do with me because when was in Mccf I was held from sick calls, grievances, and request forms. When moved to BCP I sent grievances to Mccf. (All copies are with paperwork)
- Medical Malpractice - legal term is 'operating below the standard of practice'

### Constitution Rights of Prisoners

- \* 10.3 Right to medical aid
- \* 10.3.1 Violation

### Cases (pertaining to me)

- Case no. 12-1156 Gannaway v. PrimeCare Med.
- Case no. 09-00364 Ramos-Vazquez v. PrimeCare Med.
- Case no. 08-3589 Garcia v. PrimeCare Med. (paperwork included in folder)
- Estelle v. Gamble, 429 U.S. 97, 103, 97 S. Ct. 285, 290, 50 L. Ed. 2d 251, 256 (1976)  
("These elementary principles establish the governments obligation to provide medical care for those whom it is punishing by incarceration")
- N.Y. Correct. Law §45(3) (McKinney 2012)
- Porter v. Nussle, 534 U.S. 516, 519-20, 122 S. Ct. 983, 985-86, 152 L. Ed. 2d 12, 19 (2002)  
(administrative remedy procedure available at the facility)
- U.S. Const. amend. VIII (Cruel and unusual punishment)
- Estelle v. Gamble, 429 U.S. 97, 104-05, 97 S. Ct. 285, 291, 50 L. Ed. 2d 251, 260 (1976)  
(deliberate indifference to serious medical needs of prisoners constitutes the 'unnecessary and wanton infliction of pain proscribed by the 8th amendment')
- Wilson v. Seiter, 501 U.S. 294, 303-04, 111 S. Ct. 2321, 2326-28, 115 L. Ed. 2d 271, 282-83 (1991) (holding that a prisoner can bring an 8th Amendment claim by applying the deliberate indifference standard to a condition of confinement that denies an obvious human need, such as "food, warmth, or exercise" and proving that a prison official was deliberate indifferent to that "identifiable human need")



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- Farmer v. Brennan, 511 U.S. 825, 837, 114 S.Ct. 1970, 1979, 128 L.Ed. 2d 811, 825 (1994) (a) (deciding that a prison official violated the 8th Amendment, he must 1) know why a substantial risk of serious harm to a prisoner exists and 2) ignore that risk)
  - Cole v. Fischer, 416 F. App'x 111, 113 (2d Cir. 2011) ("Deliberate indifference has 2 necessary components, one objective and the other subjective") The 2nd Circuit also has defined a serious medical need as "a condition of urgency, one that may produce death, degeneration, or extreme pain. The 2nd Circuit rejected the notion that "only 'extreme pain' or a degenerative condition" meets the legal standard since "the 8th Amend forbids not only deprivations of medical care that produce physical torture and lingering death, but also less serious denials which or perpetuate pain."
  - Anderson v. City of Atlanta, 778 F.2d 678, 686 (11th Cir. 1985) (finding that a policy of inadequate staffing of medical personnel may raise a question of deliberate indifference)
  - Estelle v. Gamble, 429 U.S. 97, 102, 97, S.Ct. 285, 290, 50 L.Ed. 2d 251, 259 (1976)
  - Brown v. Johnson, 387 F.3d 1344, 1350-52 (11th Cir. 2004)
  - Carnell v. Grimm, 872 F. Supp. 746, 755 (D. Haw. 1994)
  - Estelle v. Gamble 429 U.S. 97, 104, 97 S.Ct. 285, 291, 50 L.Ed. 2d 251, 260 (1976)
  - Brock v. Wright, 315 F.3d 158, 162 (2d Cir. 2003)
  - Smith v. Carpenter, 316 F.3d 178, 181 (2d Cir. 2003)
  - Hemmings v. Gorczyk, 134 F.3d 104, 109 (2d Cir. 1998)
  - Gutierrez v. Peters, 111 F.3d 1364, 1370 (7th Cir. 1997)
  - Blackmore v. Kalamazoo Cnty., 390 F.3d 890, 899-900 (6th Cir. 2004) (numerous courts have cited pain as an appropriate reason for finding that a prisoners medical needs are serious)
  - Johnson-El v. Schoemehl, 878 F.2d 1043, 1055 (8th Cir. 1989) (holding that delay in medical care for a condition that is "painful in nature" is actionable)
  - Johnson v. Bowers, 884 F.2d 1053, 1056 (8th Cir. 1989) (determining that prison must provide treatment when a "substantial disability" exists)
  - Monmouth Cnty. Corr. Inst. Inmates v. Lanzaro, 834 F.2d 326, 347 (3d Cir. 1987) (Finding that medical need is serious if it imposes a "life-long handicap or permanent loss")
  - Blackmore v. Kalamazoo Cnty., 390 F.3d 890, 898 (6th Cir. 2004) "A plaintiffs Deliberate Indiff. claim may be based on the prison's failure to treat a condition adequately, even where the

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- is necessary to assess whether the delay caused a serious medical injury")
- *Vaughan v. Lacey*, 49 F.3d 1344, 1346 (8th Cir. 1995) (holding that prison authorities can rely on prison doctors even where a prisoner's private physician holds a different medical opinion about appropriate treatment)
  - *Flores v. Okoye*, 196 F. App'x 235, 236 (5th Cir. 2006) (per curiam) (A doctor's failure to follow the advice of another doctor suggests nothing more than a difference of opinion... and is not evidence of deliberate indifference)
  - *Smith v. Carpenter*, 316 F.3d 178, 184 (2d Cir. 2003) (noting that "not every lapse in prison medical care will rise to the level of constitutional violation")
  - *McElligott v. Foley*, 182 F.3d 1248, 1256-57 (11th Cir. 1999) (finding that failure to inquire further into and treat severe pain, along with repeated delays in seeing the patient, could permit a jury to find deliberate indifference)
  - *Hunt v. Uphoff*, 199 F.3d 1220, 1223-24 (10th Cir. 1999) (finding that a doctor's denial of insulin and other treatments recommended by another doctor could constitute more than a mere difference of medical opinion, and that the prisoner could potentially prove deliberate indifference)
  - *Johnson v. Wright*, 412 F.3d 398, 404 (2d Cir. 2005) (noting that "a deliberate indifference claim can lie where prison officials deliberately ignore the medical recommendations of a prisoner's treating physicians")
  - *Brice v. Beach Corr. Ctr.*, 58 F.3d 101, 103-05 (4th Cir. 1995)
  - *Phelps v. Kapnolas*, 308 F.3d 180, 186-87 (2d Cir. 2002)
  - *Phillips v. Roane Cnty., Tenn.*, 534 F.3d 531, 540, 545 (6th Cir. 2008)
  - *Reeves v. Collins*, 27 F.3d 174, 176-77 (5th Cir. 1994)
  - *Sanderfer v. Nichols*, 62 F.3d 151, 155 (6th Cir. 1995) (finding that even though the doctor probably should have checked the prisoner's medical records, her failure to do so was at most negligence, not deliberate indifference)
  - *Hudson v. McHugh*, 148 F.3d 859, 861 (7th Cir. 1998)
  - *Tillery v. Owens*, 719 F. Supp. 1256, 1308 (W.D. Pa. 1989) (holding that if an informed judgement has not been made, the court may find an 8th Amendment claim) The 8th Amend. protects you from cruel and unusual punishment. U.S. Const. amend. VIII ("IN] or [shall] cruel and unusual punishments [be] inflicted")
  - *McElligott v. Foley*, 182 F.3d 1248, 1252, 1256-57 (11th Cir. 1999) (finding that failure to inquire about and treat plaintiff's severe pain, and the doctor's repeated delays in seeing the patient, could constitute deliberate indifference)
  - *McElligott v. Foley*, 182 F.3d 1248, 1256-57 (11th Cir. 1999) (finding that a doctor's repeated delays in seeing a patient with constant severe pain, combined with a decision to continue

ineffective medical care. The doctors' failure to order diagnostic tests could be found deliberately indifferent because of the immediate threat of the symptoms)

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- *Gomez v. Randle*, 680 F.3d 859, 865 (7th Cir. 2012) (holding that a condition is considered serious, even if not life threatening, if a lack of treatment would result in "Further significant injury or unnecessary and wanton infliction of pain.")
- *Roe v. Elyea*, 631 F.3d 843, 857 (7th Cir. 2011) (holding that a medical condition is considered sufficiently serious if it has been diagnosed by a doctor as requiring treatment or if it is obvious to a layperson that a doctor's attention is needed)
- *Kikumuru v. Osagie*, 461 F.3d 1269, 1292 (10th Cir. 2006) (explaining that delay must be shown to have caused "substantial harm," including pain suffered while awaited treatment)
- *Smith v. Knox Cnty. Jail*, 666 F.3d 1037, 1040 (7th Cir. 2012) ("Even a few days' delay in addressing a severely painful but readily treatable condition suffices to state a claim of deliberate indifference")
- *Smith v. Carpenter*, 316 F.3d 178, 189 (2d Cir. 2003)
- *Tolly v. Badgett*, 144 F.3d 573, 573 (8th Cir. 1998)
- *Miller v. Schoenen*, 75 F.3d 1305, 1311 (8th Cir. 1996) (finding that not providing medical care that an outside doctor and outside hospitals said was needed supported a deliberate indifference claim)
- *Estelle v. Gamble*, 429 U.S. 97, 104, 97 S.Ct. 285, 291, 50 L.Ed. 2d 251, 260 (1976) (holding that "intentionally interfering with the treatment once prescribed" can constitute an 8th Amendment claim)
- *Martinez v. Mancusi*, 443 F.2d 921, 924 (2d Cir. 1970)
- *Woodall v. Foti*, 648 F.2d 268, 271-72 (5th Cir. 1981)
- *Harrison v. Barkley*, 219 F.3d 132, 134 (2d Cir. 2000)  
*Harrison v. Barkley*, 219 F.3d 132, 138 (2d Cir. 2000)
- *Casey v. Lewis*, 834 F.Supp. 1477, 1547-48 (D. Ariz. 1993) (finding that a lack of staff to "diagnose and treat the serious mental health needs" of a prisoner constituted deliberate indifference)
- *Estate of Cole v. Fromm*, 94 F.3d 254, 261-62 (7th Cir. 1996) ("[D]eliberate indifference may be inferred based upon a medical professional's erroneous treatment decision only when the medical professional's decision is such a substantial departure from accepted professional judgment, practice, or standards as to demonstrate that the person responsible did not base the decision on such a judgment")

- Rosado v. Almeida, 349 F. Supp. 2d 1340, 1344 (S.D. Cal. 2004) (Case 5:18-cv-05010-MAR Document 2 Filed 11/19/18 Page 137 of 142)
- McElligott v. Foley, 182 F.3d 1248, 1256-57 (11th Cir. 1999) (Determining that medical staff's failure to examine and treat patient's severe pain, and repeated delays of examination of the patient, could support a finding of deliberate indifference)
- Mata v. Saiz, 427 F.3d 745, 757 (10th Cir. 2005) (explaining that violation of prison medical protocols was circumstantial evidence that the nurse "Knew of substantial risk of serious harm")
- Black's Law Dictionary (9th ed. 2009) (defining negligence as the "[t]he failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation")
- Ramos v. Lamm, 639 F.2d 559, 575 (10th Cir. 1980) (observing that in class action suits, "deliberate indifference to inmates' health needs may be shown [either] by proving repeated examples of negligent acts which disclose a pattern of conduct by the prison medical staff... or by proving there are such systemic and gross deficiencies in staffing, facilities, equipment, or procedures that the inmate population is effectively denied access to adequate medical care")
- Farmer v. Brennan, 511 U.S. 825, 835-37, 114 S.Ct. 1970, 1977-79, 128 L.Ed. 2d 811, 824-25 (1994) (holding deliberate indifference does not include negligence, even repeated acts of negligence, and to prove deliberate indifference, a prisoner must show the prison official actually knew about a "substantial risk of serious harm")
- Estelle v. Gamble, 429 U.S. 97, 105-06, 97 S.Ct. 285, 291-92, 50 L.Ed. 2d 251, 260-61 (1976) (stating that "a complaint that a physician has been negligent" does not support an 8th Amendment claim and that "a prisoner must allege acts or omissions sufficiently harmful to evidence deliberate indifference to medical needs")
- Brooks v. Celeste, 39 F.3d 125, 129 (6th Cir. 1994) (making a clear distinction between the doctor being "merely repeatedly negligent" and acting with "deliberate indifference")
- Judge Posner offers a long discussion of the difference in Sellers v. Henman, explaining, "[i]t is vital to keep negligence and deliberate indifference apart. It may be... that repeated acts of negligence are some evidence of deliberate indifference."
- Brown v. State, 192 A.D.2d 936, 938, 596 N.Y.S.2d 882, 884 (N.Y. App. Div. 3d Dept. 1993) (emphasizing that plaintiff must establish that his injuries were "caused" by the prison's negligence).
- Koehl v. Dalsheim, 85 F.3d 86, 88 (2d Cir. 1996)
- Hathaway v. Coughlin, 37 F.3d 63, 67 (2d Cir. 1994)

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- Baker v. Polk, 2015 F. Supp. 2d 100, 105 (D. Cal. 2015) (stating that although prisoner could wait to have surgery, merely classifying the surgery as elective does not abolish the prison's duty to provide treatment for a serious medical need)
  - Smith v. Carpenter, 316 F. 3d 178, 188 (2d Cir. 2003) ("[I]n Eighth Amendment claim may be based on ... exposing an inmate to an unreasonable risk of future harm and ... actual physical injury is not necessary in order to demonstrate an Eighth Amendment violation")
  - To succeed on a negligence claim you must prove 3 things:
    - 1) "Duty of Care" - that the defendants had a duty of care towards you;
    - 2) "Breach of Duty" - that the defendants failed to meet that duty; and
    - 3) "Injury" - that you were injured as a result of that failure.
  - To decide if a medical need is serious, the 2<sup>nd</sup> Circuit considers several factors including, but not limited to, the following:
    - 1) Whether a reasonable doctor or patient would perceive the medical need in question as "important and worthy of comment or treatment,"
    - 2) Whether the medical condition significantly affects daily activities, and
    - 3) Whether "chronic and substantial pain" exists.
  - You have to prove two things to show that a prison official knew about and disregarded your serious medical need.
    - 1) First, the official has to have known facts that could have shown or proven that your health was in danger.
    - 2) Second, after the official was aware of the threat to your health, the official must actually have believed that your health was in danger.
  - Common Types of Deliberate Indifference
    - 1) Ignoring obvious conditions
    - 2) Failure to provide treatment for diagnosed conditions
    - 3) Failing to investigate enough to make an informed judgement
    - 4) Delaying treatment
    - 5) Interfering with access to treatment
    - 6) Making medical decisions based on non-medical factors; and
    - 7) Making a medical judgement so bad it falls below professional medical standards
  - In determining whether or not a delay constitutes deliberate indifference, two factors are taken into account:
    - 1) the seriousness of the prisoners medical need, and
    - 2) whether the delay was objectively serious enough to present an 8<sup>th</sup> Amend. question

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- Prison guards and medical staff can prevent prisoners from getting treatment in many different ways, including:
    - 1) Denying you access to medical specialists who are qualified to address your health problems;
    - 2) Allowing you to see a specialist but then refusing to carry out the specialists recommendations (or refusing to carry out the recommendations of a specialist who directed treatment before you were incarcerated); or
    - 3) Refusing to carry out or simply ignoring medical orders
  - *Martinez v. Marcusi*, 443 F.2d 921, 924 (2d Cir. 1970) (Prison officials ignored the doctor's instructions that the prisoner could not walk and removed the prisoner, who was partially paralyzed, without the doctor's permission. This caused the surgery to be unsuccessful)
  - In order to prevail on a claim involving choices between alternative courses of treatment, a prisoner must show that the course of treatment the doctor's chose was medically unacceptable in light of the circumstances and that the chose this course in conscious disregard of an excessive risk to plaintiff's health.
  - The 8<sup>th</sup> Amendment does not protect prisoners from medical malpractice.
  - To prove negligence under state law, you must prove that:
    - 1) the defendant (your prison) owed a duty of care to you; and
    - 2) that this duty was "breached," meaning that the prison was responsible for some aspect of your well-being and did not honor its responsibility.
  - A medical malpractice claim means a person believes their injury was a medical practitioner's fault. A medical negligence claim means a person had a prior injury or medical problem that was not treated or was not treated properly.





To whom it may concern,

I am writing you this because of how I am getting treated unfair medically at SCI-Camp Hill. Very poor medical care. Here is a brief story of what has transpired since I came here. I've been here since 7/31/18. Since I've gotten here I have had a constant UTI caused by having a super pubic catheter. Since being here I've been on 3 antibiotics/4 times, 2 urine cultures (with one never getting sent out to labs), 3-5 sick calls about pain and discomfort through penis from UTI, 3-4 medical emergencies/or c/o's just calling medical telling them of my pain my pain through penis, nausea, hot and cold, and then sending me to medical to be seen, seen Dr. Edwards and Dr. Shaikh and Dr. G a lot of times for same reasons. Every time went to Dr. line both Dr's Edwards and Dr. Shaikh would tell me there wasn't anything else they could do, and that I am already on motrin and tylenol and antibiotic, then would send me on my way. Then it all got worse on 9/19 or 9/20 when I went down to dispensary after Sgt. Weber called and told medical I was nauseous and hot and cold, felt like I was going to throw up, with also pain and discomfort through penis. Went down to medical and the nurse to my temp and it was 99.6°. The nurse then called the Dr on call. He said to take me off my tylenol for one night and to put me in the infirmary for one night and at 9:30pm to take my temp again. So at 9:30pm my temp was 100.1°. So they put me back on tylenol and the next day Dr. Edwards saw me and said he was going to take my blood and urine and send me back to the block. Then on 9/22 went to see Dr. Shaikh for pain and discomfort, who then told me what he always tells me. "There is nothing more he could do. Was scheduled to see a urologist." Also that my test results would be here on Monday the 24th. So on Sunday the 23rd I woke up in the middle of the night in extreme pain through scrotum. Took tylenol and motrin and tried sleeping. (It felt like a kidney stone) On 9/24 I went to DUA for my assessment. While there I kept rocking back and forth in my chair in extreme pain in scrotum and sweating. The lady asked me if I was alright. I stated no can she please call medical I feel like im going to pass out. So she went over to sick line to speak to the PA's. Who then said they would see me. (Another medical emergency). While speaking to the PA he told me that he was sending me to the ER, but he wanted me to go see Dr. Edwards first. So I went down to the dispensary and Dr. Edwards didn't believe what I was saying was wrong. He clearly stated to me he wanted to see my test results first taken on 9/20 or 9/21, before sending me anywhere. So I waited for at least 1hr in extreme pain. After he saw my results he said it showed infection and he was going to send me to the ER. So 9/24 I went to Pinnacle Health ER and when I got there a nurse told me that Dr. Edwards told her I was there for my catheter being clogged. But once they saw my test results from the jail they knew why I was there. After that they got a Urologist PA Ms. Mills to come and look at my scrotum. Once she examined them she knew right away what it was. She said my infected urine went to my kidneys and dropped into my scrotum. Also stated that I should of been to the hospital a couple days before this all happened. She put me on an antibiotic drip right away, and admitted me to the hospital.

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Also while at the hospital my blood sugar dropped very low and I had to be put on oxygen and given a shot of sugar. Then had to receive a nebulizer treatment every 4 hrs. All this could of and should of been prevented. Now im back at SCI-Camp Hill and on 9/29 I told c/o Choi I wasn't feeling good and my penis was on fire. So he sent me to medical. Where RN Judy examined my scrotum and said she will have me see Dr. Sheikh tomorrow. She wouldn't call the dr or anything. So on 9/30 I went to see Dr. Sheikh and he did the same thing he always does. NOTHING. He stated im getting myself to worked up over this situation, that I will be alright. So I know what an infection feels like I have had lots of them and this tube for numerous amounts of time. I know my own body and when something doesn't feel right. Also why do they use antibiotics over abundantly when there should be other steps taken when they aren't working? I have had an infection for 2 months straight, and they avoided the correct treatment and it ended up almost killing me. Also was once told that when given an antibiotic the dr. should also prescribe you a probiotic to replenish your body with healthy bacteria. But they never do why? I would please like the proper medical care.

Wrote about  
actual events happening  
since surgery at MCF.  
Still suffering at SCI-Camp Hill

- David Roth

David Roth

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